

City of Miami Beach Request for Proposals

Community Development Block Grant (CDBG)
Fiscal Year 2004/2005

DEADLINE: MONDAY, MARCH 1, 2004, 5:00 P.M.

PROPOSAL WORKSHOP: February 11, 2004, 10:00 A.M., First Floor Conference Room,
City of Miami Beach City Hall, 1700 Convention Center Drive, Miami Beach, Florida 33139

ATTENTION PLEASE:

Applications will be accepted until the time and date above. The responsibility for submitting a proposal before the stated time and date is solely and strictly the responsibility of the applicant. The City is not responsible for delays caused by mail, courier service, including U.S. Mail, or any other occurrence.

City of Miami Beach
Neighborhood Services Department
Housing and Community Development Division
1700 Convention Center Drive, Third Floor
Miami Beach, FL 33139
(305) 673-7260 Phone
(305) 673-7772 FAX
www.miamibeachfl.gov

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City of Miami Beach
City Commission

David Dermer, **Mayor**
Jose Smith, **Vice-Mayor**
Matti Herrera Bower, Commissioner
Simon Cruz, Commissioner
Luis R. Garcia, Jr., Commissioner
Saul Gross, Commissioner
Richard Steinberg, Commissioner

City Administration

Jorge M. Gonzalez, **City Manager**
Christina M. Cuervo, Assistant City Manager
Robert C. Middaugh, Assistant City Manager

Neighborhood Services Department

Vivian P. Guzmán, Director

Answer Center/Community Outreach Division

Barbara Hawayek, Director

Code Compliance Division

Albert Childress, Director

Housing and Community Development Division

Joanna Revelo, Director

Office of Community Services and Homeless Coordination

Maria Ruiz, Director

Housing and Community Development Division

Miguell Del Campillo, Housing Manager
Steven Cumbo, CDBG Projects Coordinator
John Quade, Community Development Specialist
Thomas Urriola, Housing Specialist
Edward Barberio, Housing Specialist
H. Keith Mizell, Housing Specialist
Mercedes Rovirosa, Community Development Technician
Bertha Fortunato, Account Clerk II
Dionne Ireland, Clerk Typist

NEW FOR FISCAL YEAR 2004

While the City has identified certain numerical goals and strategies for its housing and community development accomplishments for the next five years as stated in the Consolidated Plan for fiscal years 2003/04 through 2007/08, a strategy can and should allow flexibility. Needs and priorities can change, sometimes rapidly, during a five-year period. Therefore, in order to be responsive to the needs of the lower income residents of the City, staff will annually review the Plan and determine which of the objectives/goals are the highest priority at that time, and will advertise which types of projects will be prioritized for selection from that year's CDBG allocation.

In order to guide outside agencies that are seeking funding, to establish parameters for the project selection process, and to enable success in project implementation, the following priorities and operational imperatives have been established.

Priorities:

1. Public facilities improvements that are located in designated target areas or other lower income areas.
2. Activities that assist lower income persons to achieve self-sufficiency.
3. Services to provide emergency shelter and other support service to homeless residents.
4. Public services for the children, youth and elderly of Miami Beach.

Operational Imperatives:

1. Recipient organizations must have acceptable past and/or current performance on City-funded projects.
2. Activities will not be funded unless the organization has developed realistic cost estimates and timelines, and has demonstrated financial stability.
3. Organizations requesting funds will be expected to have sought funding from other appropriate sources before applying for CDBG funds.
4. Activities in which organizations request funds for salaries will be given a reduced priority unless it can be demonstrated that future salary needs will be committed from another source.
5. Cost per unit (housing unit or service unit) will be considered in evaluating proposals.
6. Housing development programs and property improvement programs are expected to use quality, long-lasting methods and materials that require a minimum of maintenance or upkeep.
7. Program recipients (non-profit organizations, etc.) will be expected to provide matching funds and/or otherwise participate in the cost of their project.

Only agencies/organizations that participate in the competitive funding process of the FY 2004/05 Action Plan will be considered for funding, with programs to begin October 1, 2004.

GENERAL INFORMATION

The programs included in this Request for Proposals have been consolidated to streamline the application process. The two program grant funds are Community Development Block Grant (CDBG) and the Emergency Shelter Grants (ESG) program. *[At the time of print for this document, HUD had still not released the allocations for FY 2004/05. Therefore, the dollar amounts listed for each program are best "guesstimates" based on current year (2003/04) funding award levels. The actual amounts for FY 2004/05 are subject to change.]*

COMMUNITY DEVELOPMENT BLOCK GRANT - \$2,118,000

FUNDS AVAILABLE UNDER THIS RFP

Competitive Funding

Public Services	\$ 317,700
Housing, Rehabilitation, Public Facilities Improvements	\$ 846,700
Total	\$ 1,164,400

FUNDS NOT AVAILABLE UNDER THIS RFP

Non-Competitive Funding

Section 108 Loan Repayment	\$ 380,000
City of Miami Beach Housing Programs	\$ 100,000
Code Compliance Programs	\$ 50,000
Planning and Administration	\$ 423,600
Total	\$ 953,600

EMERGENCY SHELTER GRANTS - \$95,000

FUNDS AVAILABLE UNDER THIS RFP

Competitive Funding

Homeless Prevention Activities	\$ 28,500
Emergency Shelter/Transitional Housing	\$ 61,750
Total	\$ 90,250

FUNDS NOT AVAILABLE UNDER THIS RFP

Non-Competitive Funding

Planning and Administration	\$ 4,750
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Applicants may apply for one or both of the programs for which they are eligible. However, a separate application is required for each program and should describe the suggested activities and capabilities of the organization as they relate to each program.

APPLICATION DEADLINE DATE:

MONDAY, MARCH 1, 2004, 5:00 P.M.

NOTE: LATE APPLICATIONS WILL NOT BE ACCEPTED.

Before preparing a request for funding, first determine whether or not the proposed activity or project is an eligible activity per federal regulations. The CDBG regulations are located in Appendix 1; ESG regulations are located in Appendix 2. These appendices define eligible and ineligible activities for the respective programs. If the proposal does not meet the national objective for CDBG funding, or is determined to be ineligible under other applicable CDBG or ESG regulations, the project cannot be considered for funding.

ELIGIBLE ACTIVITIES

FOR CDBG APPLICATIONS -- NATIONAL OBJECTIVES

The **primary objective** of the CDBG program is to benefit low and moderate-income persons who earn at or below 80% of the median income and reside in census tracts with at least 51% low and moderate-income levels (LMI). Priority will be given to those applications that meet this national objective as stated below. LMI income and census tract information can be found in Appendices 4 and 5. All CDBG-funded program activities must meet ONE of the program National Objectives listed below.

National Objective 1: Principally benefits low- and moderate-income persons who earn at or below 80% of the median income. [Federal regulation citation 570.208(a)]

National Objective 2: Aids in the prevention or elimination of slums or blight [Federal regulation citation 570.208 (b)]

National Objective 3: Qualifies as a certified urgent need [Federal regulation citation 570.208 (c)]

An activity that fails to meet one or more of the applicable tests for meeting a national objective is in noncompliance with CDBG rules.

FOR ESG APPLICATIONS -- MATCHING DOLLAR REQUIREMENT

Matching Dollars - The proposed activity or project must demonstrate how the federal dollar for dollar match of the ESG grant request will be made. Eligible sources for the match component may include salaries, fair market value of donated material or building, fair market value of a building lease, and volunteer hours. If you designate the source of a match, you must be able to demonstrate in your operating budget how these dollars are budgeted as expenditures.

Priority Placement - Outline your organization's plan for priority placement of Miami Beach's homeless population at your facility, and detail resources available to transport homeless individuals to the facility for intake and placement.

OTHER APPLICATION FACTORS

Applicants are encouraged to develop a program that has a substantial and comprehensive effect on the needs and conditions identified in their application. The following factors should be considered before preparing an application, as they are the same factors that will be used to judge the overall feasibility of the proposal.

1. Is the proposed activity consistent with the FY 2004 priorities?
2. Is the proposed activity designed to supplement rather than duplicate any planned or existing activity?
3. Will the proposed activity require additional funding beyond the CDBG or ESG request to fully correct the conditions and meet the needs that exist?

**City of Miami Beach
Application for Federal Funds
Fiscal Year 2004-2005**

4. Are there other publicly or privately funded activities planned or underway that would duplicate the proposed activity?
5. Are there other financial resources available, beyond those of CDBG or ESG that could be used to fund your proposed activity?
6. Is the proposed activity economically feasible and can it be implemented in a timely, cost-effective manner within the proposed program year?
7. Will the proposed activity or program result in any involuntary displacement of individuals or is displacement a minimal part of the project?
8. Does the proposed project or activity take into consideration the collaboration of resources with other public and/or private development efforts to be more effective and efficient?
9. Is the proposed activity or project designed to produce substantial improvements within the program year that will have long-term effects?
10. Does the budget narrative sufficiently explain all budget line items and costs per unit? Does the budget narrative sufficiently explain what will be used as a "unit of service"?
11. Does the proposal sufficiently explain what the performance measures (or outcomes or deliverables) are for the proposed activity?

PROPOSAL REVIEW AND PLANNING PHASE OF THE DEVELOPMENT OF THE ONE-YEAR ACTION PLAN

Once submitted, no proposal may be amended, unless the amendment has been requested or permitted by the City. The City, at its sole discretion, reserves the right to contact an applicant if additional technical information is required. A workshop for applicants will be held to discuss the preparation of an application on Wednesday February 11, 2004, at 10:00 a.m. in the First Floor Conference Room of City Hall.

As a courtesy to applicants, staff will conduct courtesy proposal review of draft applications if received prior to Thursday February 26, 2004. See schedule below for pertinent dates.

The City will evaluate proposals in a two-phase process. The first phase will involve a review of the proposals by the staff of the Housing and Community Development Division for conformance to the submission requirements and a determination of whether the proposals meet the minimum criteria established in this RFP. Each proposal will be reviewed for program eligibility under the regulations of the Community Development Block Grant Program and/or the Emergency Shelter Grants Program, and feasibility for implementation. The second phase will involve an evaluation of the proposal merits by the staff of the Housing and Community Development Division, the Community Development Advisory Committee (CDAC) and the Committee on the Homeless, if necessary. During this phase, and at its discretion, City staff, with the participation of the CDAC, may conduct interviews with qualifying applicants. During these applicant presentations, city staff and CDAC will further explore the technical aspects of the qualifying proposals with the applicant and provide the applicant the opportunity to clarify their proposal and advise the City of any additional factors, which may be relevant.

The City anticipates, but is not bound by, the following schedule for reviewing proposals and developing the One-Year Action Plan, which details how these federal funds will be used.

February 6, 2004	CDBG & ESG Request for Proposals (RFP) available.
February 11, 2004	First Floor Conference Room - City Hall, 1700 Convention Center Drive, 10 a.m.
February 26, 2004	Deadline for Courtesy Proposals Review - 5:00 p.m.
March 1, 2004	Proposals due - 5:00 p.m. Deadline.
March 23, 2004	Public Hearing on Needs Assessment and Performance Evaluation for Pre-Development of One-Year Action Plan - 6:00 p.m.
March - May 2004	Proposals reviewed and evaluated; applicants invited to make brief oral presentations. Funding recommendations are finalized.
June 1 - 30, 2004	Thirty-day comment period for citizen review and comment of the proposed activities and funding, as included in the draft of the One-Year Action Plan.
June 15, 2004	Public Hearing on the Draft of the One-Year Action Plan.
July 2004	One-Year Action Plan and contractual agreements submitted to the City Commission for approval.
August 13, 2004	One-Year Action Plan submitted to HUD.
October 1, 2004	Fiscal Year 2004/2005, Program Year 28 begins. Contract period is October 1, 2004 to September 30, 2005.

RANKING CRITERIA FOR FUNDING PROPOSALS

A continued emphasis will be placed on providers with exemplary performance. Applications will be ranked competitively; a total of 100 points will be available, with the possibility of adding 5 bonus points for a maximum total of 105 points. If an application scores less than 0 points (80%) it will not be considered for funding. The City staff and CDAC members will utilize the following criteria, in addition to HUD eligibility requirements and the City's Consolidated Plan priorities, in evaluating proposals submitted for CDBG and ESG funding:

I.	Impact on City's Priority Needs	15 Points
II.	Benefit to Low & Moderate Income Persons (CDBG only)	15 Points
	Prevent or eliminate slum or blight (CDBG only)	12 Points
	Meets urgent community need (CDBG only)	10 Points
	Benefit to Homeless Individuals (ESG only)	15 Points
III.	Project Description	15 Points
IV.	Performance Measures/ Program Outcomes	15 Points
V.	Sponsor Capacity and Applicant's Experience	10 Points
VI.	Budget Summary and Itemization Pages	20 Points
VII.	Budget Narrative	<u>10 Points</u>
	Total	100 Points
	Bonus Points – Fundraising and/or leveraged funds	<u>+10 Points</u>
	Maximum Points Available	110 Points

I. IMPACT ON CITY'S FY 2004/05 PRIORITY NEEDS - 15 POINTS

The need for the proposed project will be determined by identifying how the project impacts upon the City's Priority Needs. Therefore, applications should provide a clear explanation of how the project impacts upon these identified needs. Greater consideration will be given to projects that provide a clear description of the project with supporting data and methodology of how the project will meet the City's needs.

Proposals will also be evaluated on the number of persons to be served by the proposed facility/activity as compared to the number of persons in need of such service. Projects will also be evaluated based on the type and extent of service provided.

Economic development proposals will be evaluated on: the number of jobs and enterprises to be established or retained; and the projected returns on investments, such as local taxes generated and program income collected, through a cost benefit review.

15 points	Project meaningfully addresses the stated FY 2004/05 priority needs
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**II-A. BENEFIT TO LOW AND MODERATE INCOME PERSONS (CDBG ONLY) - 15 POINTS
MAXIMUM**

Projects which benefit low- and moderate-income (LMI) persons must not be designed to exclude participation by such persons. A project will be considered to benefit low- and moderate-income persons if it meets one of the four requirements listed below:

1. The activities are carried out in a neighborhood consisting predominantly of persons of low- and moderate-income and provide services for such persons, "**Area Benefit Activities**"; or
2. Involve facilities or services designed for use predominantly by persons of low- and moderate-income, "**Limited Clientele Activities**" (*usually necessitates household income information*); or
3. Involve activities which add or improve permanent residential structures occupied by persons of low- and moderate-income, "**Housing Activities**" (*residential rehabilitation, new housing construction, acquisition for permanent housing, etc.*); or
4. Involve employment of persons, a majority of whom are persons of low- and moderate-income, "**Low- and Moderate-Income (LMI) Jobs**".

Consideration for scoring applications under the low- and moderate-income (LMI) criterion include: LMI benefit activity selected; how LMI persons will be determined; the absolute number of persons to be served; the percent of qualifying LMI persons to be served; and how the low- and moderate-income persons will benefit. For the purpose of evaluating project applications, at least 51% of beneficiaries must be low- and moderate-income. **Projects that cannot demonstrate benefit to 51% LMI will not be funded.**

5 points: Benefit to low- and/or moderate-income (LMI) persons.

5 points: Outreach strategy or actual service area for activity for LMI described.

5 points: Methodology used to determine activity category to benefit LMI persons and how analysis served was derived.

**II-B. ACTIVITIES WHICH AID IN THE PREVENTION OR ELIMINATION OF SLUMS OR
BLIGHT – 12 POINTS MAXIMUM**

Projects or activities which will aid in the prevention or elimination of slums or blight may be done on an AREA basis; on a SPOT basis; or in an URBAN RENEWAL AREA. [Please refer to the Instructions and/or Regulations for additional information on this National Objective.]

II-C. ACTIVITY WHICH ADDRESSES AN URGENT NEED – 10 POINTS MAXIMUM

To comply with the national objective of meeting community development needs having particular urgency, an activity must be designed to alleviate existing conditions which the City certifies is either a) a serious and immediate threat to the health or welfare of the community; b) are of recent origin or recently became urgent; c) the City is unable to finance the activity on its own; and d) other resources

of funding are not available to carry out the activity. A condition will generally be considered to be of recent origin if it is developed or became critical within 18 months preceding the City's certification.

II-D. BENEFIT TO HOMELESS INDIVIDUALS (ESG ONLY) - 15 POINTS MAXIMUM

Proposals to benefit homeless persons must not be designed to exclude participation by such persons. A project will only be considered for funding if it involves one of the following activities listed below:

1. Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless; or
2. Provision of essential services to the homeless; or
3. Payment for shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food, and furnishings. (*No more than 10 percent of the grant amount may be used for costs of staff*); or
4. Developing and implementing homeless prevention activities.

Consideration for scoring applications under the benefit to homeless individuals criterion include: eligible activity selected; how homeless individuals will be able to access services; how outreach will be conducted to reach the homeless; the absolute number of persons to be served; the percent of qualifying persons to be served; the ability for homeless individuals to participate in the organization's policymaking entity and/or provide work or services at the facilities; how the homeless persons will benefit; how the activity addresses the homeless Continuum of Care (emergency shelter, transitional housing, permanent or supportive housing) and other support services.

10 points	Activity addresses the Continuum of Care for Homeless
3 points	Physical location in Miami Beach; or detailed outreach plan to serve prospective Miami Beach homeless.
1 points	Homeless individuals on staff and/or providing services at facilities
1 points	Homeless individuals participating in policymaking entity

III. PROJECT DESCRIPTION - 15 POINTS MAXIMUM

The content and soundness of all applicants' project design will be evaluated. This evaluation shall include a review of proposed project activities set forth in the narrative.

For Economic Development Activities the cost benefit ratio will be considered in terms of the amount of CDBG funds used to create one job. The intent of this provision is to fund those projects which cannot succeed without CDBG funds, giving preference to those which show the most efficient and effective use of public funds.

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|----------|---|
| 5 points | Overall soundness and content of project design in addressing all issues relevant to project implementation and management. |
| 5 points | Administrative procedures and project related procedures are clear and reasonable. |
| 5 points | Activity or agency services are coordinated, as appropriate, through other service providers in the community for outreach and referrals. |

IV. PERFORMANCE MEASURES/PROGRAM OUTCOMES – 15 POINTS MAXIMUM

The proposed project or activity must have identifiable program measures or outcomes upon which the activity can be measured to determine the success or effectiveness of the program/activity. This section of the application must quantitatively demonstrate how the achievement or program outcomes will be documented. Applicants are encouraged to also include other appropriate outcomes they might seek from the proposed program. For performance/outcome measures that do not list a target goal (percent or number), applicants should list one.

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| 5 points | Clear, concise performance measures are stated. |
| 5 points | Schedule of implementation is feasible and consistent with activity; proposed activity and benchmarks can be accomplished within the FY 2004/05 program year (Oct. 1, 2004 – Sept. 30, 2005) |
| 5 points | Demonstrates the ability to properly collect and record beneficiary demographic information, track services provided, and documents services and performance of proposed activity. |

V. ORGANIZATION CAPACITY AND ADMINISTRATIVE EXPERIENCE - 10 POINTS MAXIMUM

Project sponsors must demonstrate the ability to carry out the proposed activities. Project sponsors will be evaluated on experience with providing proposed activity, administrative capacity, and financial management. Responses will be evaluated based on the following factors:

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| 5 points | Current or previous experience with related program or project activity; existing or proposed staff is adequate to carry out the project; staff is licensed or certified to carry out the proposed activity. |
| 5 points | Financial management system is appropriate and adequate; recent financial statement or audit has been provided. |

VI. BUDGET SUMMARY AND BUDGET ITEMIZATION – 20 POINTS MAXIMUM

Budgets will be evaluated on the relationship between the cost of the activity or units of service, with the feasibility of project activities for the targeted beneficiaries or service delivery. Applicants must use the Budget Forms included in this Request for Proposal, or their exact facsimile. Budget considerations include methods used to derive cost estimates, the relationship between cost(s) and the activities to be undertaken; the cost per unit, the reasonableness of the cost, mathematical accuracy or each line item subtotal and total. *For Economic Development Activities* the cost benefit ratio will be considered in terms of the amount of CDBG funds used to create one job. The intent of this provision for economic development activities, as well as the other eligible activities, is to fund those projects which cannot succeed without CDBG funds, giving preference to those which show the most efficient and effective use of public funds.

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| 5 points | Budget Summary Sheet is completely accurately – amount corresponds to request |
| 5 points | Budget Itemization Sheets are completed accurately |
| 5 points | Direct correspondence between costs proposed and the need for the activity |
| 5 points | Administrative or operational expenses are less than 20% of amount requested, if applicable. |

VII. BUDGET NARRATIVE – 10 POINTS MAXIMUM

The Budget Narrative will be evaluated on the detailed narrative description of each expense listed in the Budget. Specify source, type, and amount of in-kind contributions received, if applicable.

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| 10 points | Narrative concisely and aptly describes and justifies each line item expense. |
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BONUS POINTS - LEVERAGED/MATCHING FUNDS – 10 POINTS MAXIMUM

Consideration will be given to the amount of other funds committed to the project. The greater the financial support or leveraging from local and other sources, the greater the potential impact that CDBG and/or ESG funds will have on meeting local community needs. Therefore, bonus points will be awarded to activities which provide documentation of a one-to-one, or greater, ratio of a leverage/match. Documentation must be provided with the application to verify the availability of leverage/match resources. (See Application Submission Checklist.)

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| 10 points | Documentation to verify the availability of one-to-one (or greater) ratio of leveraged/matched resources. The evidence must state the dollar value and verify the availability of resources for the project. |
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APPLICATION CHECKLIST

The following is designed to assist you with preparing and submitting the proposal for FY 2004/05 funds in a uniform order and format. Only the **Original** application shall include all required documentation, which includes Attachments I through VI. The other four (4) copies of the Original need only include Attachments I through III. Check the following before submitting your application. Did you:

- ☐ Submit ONE ORIGINAL and FOUR COPIES of the completed application in a three-ring binder?
- ☐ Submit ONE ORIGINAL hard copy with a signature in BLUE INK (not black)?
- ☐ Verify that all required attachments requested with the application were included?
- ☐ Make sure that proposed activities are eligible for funding under the CDBG or ESG regulations?
- ☐ If your organization is planning to request funding for more than one activity, was a separate application submitted for each activity? One for CDBG funding? One for ESG funding?
- ☐ For CDBG proposals: Clearly demonstrates that the proposed activity meets one of the National Objectives? Or primarily benefits low and moderate income residents of Miami Beach?
- ☐ For ESG proposals: Demonstrate your organization's ability to match the amount of grant funds requested on a dollar for dollar basis?
- ☐ Submit your application so it will be **received** in the Housing and Community Development Division office **NO LATER THAN 5:00 p.m.** on the closing date, **Monday, March 1, 2004?**

LATE PROPOSALS WILL BE DATE/TIME STAMPED AND RETURNED UNOPENED.

APPLICATION FORMS

Please detach, or otherwise duplicate EXACTLY as shown in this RFP the application forms for proposal submission; or request a diskette of the application forms. The same may be duplicated if additional forms are needed. Refer to the Instructions in Section III for more details on how to prepare and fill out the information requested. The Request for Proposal will also be posted on the City's Web site www.miamibeachfl.gov. Questions concerning the completion of applications may be answered by the staff of the Housing and Community Development Division. The phone number is (305) 673-7260.

SUBMIT THE APPLICATION IN THE FOLLOWING ORDER AND USE THE PROPOSAL FORMAT AS SHOWN ON THE FOLLOWING PAGE (PROPOSAL FORMAT).

1. Cover Page – (Original with signature in blue ink; see enclosed Cover Page)
2. Project Synopsis – see enclosed Project Synopsis page
3. Impact on City's Priority Needs – Use narrative format
4. Benefit to Low- and Moderate-Income Persons (CDBG only) – use narrative format
Benefit to Homeless Individuals (ESG only) – use narrative format
5. Project Description – use narrative format
6. Performance Measure/Program Outcomes or Project Accomplishments – use narrative format
7. Organization Capacity – use narrative format
8. Budget Summary Sheet - see enclosed Budget Summary Sheet
9. Budget Itemization Sheet(s) – see enclosed Budget Itemization Sheet
-- Estimated Program Income (if applicable) – see enclosed Program Income page
10. Budget Narrative Pages - use narrative format
11. Bonus Points – Leveraged or Matched Funds – use narrative format and see enclosed
Leveraged/Matching Funds page
12. Acknowledgment Letter and Disclaimer – see enclosed letter and disclaimer
13. Attachments
 - Attachment I, "Current Agency Operating Budget"
 - Attachment II, "Governing Board" (list of organization's board of directors)
 - Attachment III, "Financial Statement or Audit"

SUBMIT THE FOLLOWING TOGETHER WITH JUST THE **ORIGINAL** APPLICATION:

- Attachment IV: "Affidavit of Compliance with Federal, State, Local regulations"
- Attachment V: "Proof of Federal Tax Identification"
- Attachment VI: "Letter or Certification of Not-for-Profit and Tax Exempt status"

SUBMIT THE ORIGINAL APPLICATION AND FOUR COPIES IN A THREE RING BINDER.

PROPOSAL FORMAT:

- I. COVER PAGE**
- II. PROJECT SYNOPSIS**
- III. IMPACT ON CITY'S PRIORITY NEEDS – 15 POINTS**
(NOT TO EXCEED 1-1/2 PAGE)
- IV. BENEFIT TO LOW AND MODERATE INCOME PERSONS (CDBG ONLY) - 15 POINTS**
(NOT TO EXCEED ONE PAGE)

BENEFIT TO HOMELESS PERSONS (ESG ONLY) - 15 POINTS
(NOT TO EXCEED ONE PAGE)
- V. PROJECT DESCRIPTION – 15 POINTS**
(NOT TO EXCEED FOUR PAGES)
- VI. PERFORMANCE MEASURES AND PROGRAM OUTCOMES – 15 POINTS**
(NOT TO EXCEED TWO PAGES)
- VII. ORGANIZATION CAPACITY AND EXPERIENCE – 10 POINTS**
(NOT TO EXCEED FOUR PAGES)
- VIII. BUDGET SUMMARY SHEET - 10 POINTS**
(SEE BUDGET FORMAT IN RFP)
- IX. BUDGET ITEMIZATION PAGES - 10 POINTS**
(SEE ITEMIZATION FORMAT IN RFP)
- X. BUDGET NARRATIVE - 10 POINTS**
(NOT TO EXCEED TWO PAGES)
- XI. LEVERAGED OR MATCHING FUNDS – 10 BONUS POINTS**
(SEE FORMAT IN RFP. DO NOT EXCEED ONE ADDITIONAL PAGE)
- XII. ACKNOWLEDGEMENT LETTER AND DISCLAIMER**
- XIII. ATTACHMENTS**

WHEN POSSIBLE BE CONCISE IN PROVIDING INFORMATION.

COVER PAGE

☐ CDBG REQUEST

☐ ESG REQUEST

Name of Organization: _____

Project Name: _____

Project Address : _____

Telephone #: _____ Fax #: _____

E-mail address: _____ Web site: _____

Contact Person: _____

Executive Director: _____

Telephone #: _____ E-mail address: _____

Employer (IRS) I.D. # _____

PROJECT FUNDING REQUEST \$ _____

FUNDING CATEGORY? (Select only one category)

☐ Housing ☐ Capital Improvements ☐ Economic Development ☐ Homeless

☐ Rehabilitation and Preservation ☐ Other _____

☐ Public Services – (select one in the subset below)

☐ Youth Services

☐ Childcare Services

☐ Senior/Elderly Services

☐ Health Services

☐ Employment Training

☐ Other Public Services _____

I certify that all the information contained in this application is true and accurate. I further understand that material omission or false information contained in this application constitutes grounds for disqualification of the Applicant and this application. I further understand that by submitting an application, I as the authorized representative of the organization, am accepting the terms and conditions as they appear in the Request for Proposals for FY 2004-05.

Authorized Signature: _____ Date: _____

Name: _____ Title: _____

PROJECT SYNOPSIS

Please limit the project synopsis to the space provided below. (Not to exceed 25 words).

HAS THIS PROJECT/ACTIVITY RECEIVED CITY OF MIAMI BEACH FUNDS IN PREVIOUS YEARS?
☐ YES ☐ NO

Fiscal Year	Amount of Award

BUDGET SUMMARY SHEET

Activity Name: _____ Funding Year 2004-2005

Agency Name: _____

Category	CDBG or ESG Request	Amount Other Funds	Source of Other Funds	Total Funds
Personnel – Salaries				
Operating				
Capital /Equipment Costs				
Total CDBG/ESG Request	\$			
Total Other Funds		\$		
Grand Total				\$

-Of the funding request above, what is the amount for OPERATING COSTS (do not include salaries)?
\$ _____

-Of the funding request above, what is the amount for PERSONNEL COSTS (include salaries and fringe)?
\$ _____

-Of the funding request above, what is the percentage for ADMINISTRATIVE COSTS (divide B/A): _____ %

BUDGET ITEMIZATION SHEET

(REPRODUCE THIS SHEET AS NEEDED FOR EACH SPECIFIC LINE ITEM)

Activity Name: _____ Funding Year 2004-2005

Agency Name: _____

Detail/Itemization of sub-category	CDBG or ESG Request	Other Funds	Total Funds
Total Amount	\$		\$

ESTIMATED PROGRAM INCOME

(COMPLETE AND SUBMIT ONLY IF APPLICABLE)

Activity Name: _____ Funding Year 2004-2005

Agency Name: _____

Type of income generated	CDBG Funds	Income Amount	Total Funds
Total Amount	\$	\$	\$

Activity Name: _____ **Funding Year 2004-2005**

Source of Funds or Match	CDBG Funds	Amount of Funds or Match	Total Funds
Total Amount	\$	\$	\$

ACKNOWLEDGMENT LETTER

[All applicants shall incorporate in the original application proposal the following letter and Disclosure and Disclaimer attachment on the organization's letterhead]:

March 1, 2004

Ms. Joanna Revelo, Division Director
Housing and Community Development Division
City of Miami Beach
Community Development Division
1700 Convention Center Drive
Miami Beach, FL 33139

RE: Request for Funding under CDBG and/or ESG Program Funds FY 2004-2005

Dear Ms. Revelo and members of the CDAC:

I have read the City of Miami Beach Request for Proposals for CDBG/ESG Programs Fiscal Year 2004-2005 funding. On behalf of [***Organization Name***], as the duly authorized signatory for [***Organization Name***], I agree to and accept the terms, specific limitations, and conditions expressed therein. In addition, I have read, rely upon, acknowledge, and accept the City's Disclosure and Disclaimer, which is attached hereto and is fully incorporated into this letter.

Further, if our proposed project activities include the rehabilitation or construction of a commercial or residential building that is currently occupied, we hereby authorize the staff of the City of Miami Beach Housing and Community Development Division to enter the premises and interview any residents. We realize that the purpose of the interviews is to determine the estimated amount of relocation assistance that may be needed.

Sincerely,

[Signature]

[Name and Title]

(By signing above, the undersigned acknowledges that he/she has read and understands the Certifications attached hereto as Appendix 3 and, if awarded CDBG or ESG funds, as applicable, the Applicant will be able to comply fully with the provisions of those Certifications and will be able to comply with all additional applicable federal, state and local requirements, including procurement and financial management. Applicant also acknowledges that if a funding recommendation is made for less than the full amount applied for, additional documentation including a revised budget, scope of work and proposed accomplishments may be requested prior to final funding determinations. The City of Miami Beach reserves the right to verify that the authorized signature above is authorized to bind the Proposer (on behalf of the organization), and may require the Proposer to submit documentation verifying such authority.)

CERTIFICATION

The undersigned certifies that the information in this application is true and correct. The undersigned further certifies that they are aware that if the City of Miami Beach finds that the applicant agency or undersigned has engaged in fraudulent actions or intentionally misrepresented facts on this application, this application will be rejected and the applicant agency may be unable to participate in any program for two (2) complete fiscal years.

If applying for Community Development Block Grant (CDBG) funds, the applicant has read, understands and agrees to comply with the provisions of 24 CFR Part 570, and all federal regulations issued thereto by the U.S. Department of Housing and Urban Development.

If applying for Emergency Shelter Grants (ESG) funds, the applicant has read, understands and agrees to comply with the provisions of 24 CFR Part 576, and all federal regulations issued thereto by the U.S. Department of Housing and Urban Development.

The undersigned understands and agrees to abide by the provisions of the applicable federal, state and local regulations and laws.

Applicant Name

Signature of Witness

Authorized Signatory

Name (type or print)

Name and Title (type or print)

Signature of Witness

Date

Name (type or print)

DISCLOSURE AND DISCLAIMER

The City of Miami Beach (City) is furnishing this Request for Proposals (RFP) to the applicant for the applicant's information and convenience. Any action taken by the City in response to applications made pursuant to this RFP or in making any award or in failing or refusing to make any award pursuant to such applications, or in canceling awards, or in withdrawing or canceling this RFP, either before or after issuance of an award(s), shall be without any liability on the part of the City. The contents of this RFP are neither warranted nor guaranteed by the City of Miami Beach. Applicants interested in pursuing this opportunity are urged to make such evaluations as they deem advisable and to reach independent conclusions concerning statements made in this RFP and any supplements thereto. The City reserves the right to reject any and all proposals for any reason, or for no reason, without any resultant liability to the City.

In its sole discretion, the City may withdraw the RFP either before or after receiving applications, may accept or reject applications, and may accept applications which deviate from the RFP as it deems appropriate and in its best interest. In its sole discretion, the City may determine the qualifications and acceptability of any party or parties submitting applications in response to this RFP.

Following submission of an application, the applicant agrees to deliver such further details, information and assurances, including financial and disclosure data, relating to the application and the applicant including the applicant's affiliates, officers, directors, shareholders, partners and employees as requested by the City in its discretion.

The information contained herein is provided solely for the convenience of prospective subrecipients. It is the responsibility of the applicant to assure that information contained herein is accurate and complete. The City does not provide any assurances as to the accuracy of any information in this RFP.

Any reliance on these contents, or on any communications with City officials, shall be at the applicant's own risk. Prospective applicants should rely exclusively on their own investigations, interpretations and analyses. The RFP is being provided by the City without any warranty or representation, express or implied, as to its content, its accuracy, or its completeness. No warranty or representation is made by the City or its agents that any application conforming with these requirements will be selected for consideration, negotiation, or approval.

The City shall have no obligation or liability with respect to this RFP, the selection and the award process or whether any award will be made. Any applicant to this RFP who responds hereto fully acknowledges all the provisions of this disclosure and disclaimer, is totally relying on this disclosure and disclaimer, and agrees to be bound by the terms hereof. Any applications submitted to the City or its advisors pursuant to this RFP are submitted at the sole risk and responsibility of the party submitting such application.

This RFP is made subject to correction of errors, omissions, or withdrawal without notice. Information is for guidance only and does not constitute all or any part of an agreement.

The City and all applicants will be bound only as, if and when an application, as same may be modified, and the applicable definitive agreements pertaining thereto, are approved and executed by the parties, and then only pursuant to the terms of the definitive agreements executed among the parties. Any response to this RFP may be accepted or rejected by the City for any reason, or for no reason, without any resultant liability to the City.

The City is governed by the Government-in-the-Sunshine Law, and all applications and supporting documents shall be subject to disclosure as required by such law. All documents received by the City shall become public records.

Applicants are expected to make all disclosures and declarations as requested in this RFP. By submission of an application, the applicant acknowledges and agrees that the City has the right to make any inquiry or investigation it deems appropriate to substantiate or supplement information contained in the application, and authorizes the release to the City of any and all information sought in such inquiry or investigation. Each applicant certifies that the information contained in the application is true, accurate and complete to the best of its knowledge and belief.

Notwithstanding the foregoing or anything contained in the RFP, all applicants agree that in the event of a final unappealable judgement by a court of competent jurisdiction which imposes on the City any liability arising out of this RFP or any response thereto or any action or inaction by the City with respect thereto, such liability shall be limited to \$10,000.00 as agreed-upon and liquidated damages. The previous sentence, however, shall not be construed to circumvent any of the other provisions of this disclosure and disclaimer, which imposes no liability on the City.

In the event of any differences in language between this disclosure and disclaimer and the balance of the RFP, it is understood that the provisions of this disclosure and disclaimer shall always govern. The RFP and any disputes arising from the RFP shall be governed by and construed in accordance with the laws of the State of Florida.

[Signature]

[Name and Title]

[Organization]

SUBMISSION INSTRUCTIONS

Proposal applications for the CDBG Program Year 30 (FY 2004-2005) and/or the ESG program FY 2004-2005 will be accepted at the Housing and Community Development Department Division office, during regular office hours, 9:00 a.m. - 5:00 p.m., Monday through Friday.

The deadline for submission is Monday, **March 1, 2004, NO LATER THAN 5:00 P.M.**

The following instructions detail the information required from all applicants who submit an application for funding under either the Community Development Block Grant Program (CDBG) or the Emergency Shelter Grants Program (ESG). Submit all applicable information in the prescribed order and in a three ring binder. Do not include any information which has not been specifically requested in this request for proposal (RFP). Electronic applications on diskette will not be accepted.

- Applications must be typed (electronically word processed). Handwritten applications or handwritten budget forms will result in loss of points.
- The application format is available on 3-1/2" diskette (Microsoft Word 2002).
- All original documents shall not exceed 8 1/2" x 11" paper size. Standard 1" margins shall be used. Font size should be 10 to 12 point size. (The larger font size is preferable).
- All copies shall be on three-hole punched paper in one three-ring binder. Do not staple or otherwise bind original with copies.
- Funding requests for CDBG and ESG activities must be requested as separate grant applications.
- If your organization is planning to request funding for more than one eligible CDBG activity, each activity must be submitted as a separate application with a separate budget for review; and in SEPARATE BINDERS.
- The staff of the Housing and Community Development Division is available to answer questions concerning completion of an application.
- **LATE APPLICATIONS WILL BE RETURNED TO THE APPLICANT UNOPENED WITH A DATE/TIME STAMP.**
- The original and four copies (5 total) of the completed application shall be hand-delivered to:

City of Miami Beach
Housing and Community Development Division
1700 Convention Center Drive, 3rd Floor
Miami Beach, FL 33139

I. INSTRUCTIONS FOR COVER PAGE

Fill in all the requested information on the Cover Page of the application. Ensure that the appropriate box is checked to indicate either a CDBG funds request or an ESG funds request. All information on this cover page will be used for all future outgoing correspondence will be used to update the Housing and Community Development Division database records. Notify the office of Housing and Community Development when information on the cover page changes.

Indicate the amount of the request on the "Project Funding Request" line. Select only ONE category under the eligible activities subsection. If "Other" has been selected, indicate what the "other" activity is. If the application is for Public Services, select only ONE subset under the Public Services category. If "Other Public Services" is selected, indicate what the other eligible general public service is. Refer to Appendices 1 and 2 for the CDBG and ESG regulations which also list the eligible kinds of activities.

Ensure that the appropriate and authorized signatory sign and date the cover page. The original application cover page should be signed in blue ink or otherwise noted as being the "Original" application. Include the signatory's printed name and title.

II. INSTRUCTIONS FOR PROJECT SYNOPSIS & PRIOR YEAR GRANT AWARDS

In this section, LIMIT the project synopsis to a maximum of 25 words or less. The synopsis should concisely describe or state for what activity or purpose funds are being requested.

If the proposed activity has received prior year City of Miami Beach federal funds, state the fiscal year (using most current first) and the amount of the grant award.

III. INSTRUCTIONS FOR IMPACT OF PROPOSED ACTIVITY ON PRIORITY NEEDS

In this section, clearly and concisely state how the proposed activity will address one (or more) of the City's priority needs for benefiting low and moderate income persons; or aiding in the prevention or elimination of slum or blight for CDBG applicants; or how the activity will address homelessness and the continuum of care for ESG applicants, whichever objective is desired for the appropriate funding program. State why or how CDBG or ESG funds will be used or why they are needed for the activity.

Below, for your reference, are tables of the City's priority needs as outlined in the Five-Year 2003-2007 Consolidated Plan. Do not exceed 1-1/2 pages in writing the description of how the proposed activity will impact or address the city priority needs as listed below. This section is worth a maximum of 15 points.

CONSOLIDATED PLAN PRIORITY NEEDS

The City of Miami Beach adopted its current Consolidated Plan in October 2002. This 5-year plan encompasses housing and non-housing community development activities, resources and projects to be undertaken to address the identified community needs for the fiscal years of 2003/04 through 2007/08. The Consolidated Plan also includes a prioritization of community housing and non-housing needs, as well as other needs. The following tables illustrate the list of priorities from the Consolidated Plan.

TABLE I: Non-Housing Community Development Needs

Non-Housing Community Development Needs		Priority
Anti-Crime Programs	Overall	Low
Economic Development	Overall	High
	Rehab; Publicly or Privately-Owned Commercial	High
	Capital Improvements Land Acquisition/Disposition	Low
	Capital Improvements Infrastructure Development	Low
	Capital Improvements Building Acquisition, Construction, Rehab.	Low
	Other Commercial/Industrial Improvements	Low
	Direct Financial Assistance to For Profits	Low
	Technical Assistance	Low
	Microenterprise Assistance	Medium
Infrastructure	Overall	High
	Flood Drain Improvements	Low
	Water/Sewer Improvements	Low
	Street Improvements	High
	Sidewalks	Medium
	Tree Planting	Medium
	Removal of Architectural Barriers	Medium
	Privately Owned Utilities	Low
Public Facilities	Overall	High
	Public Facilities and Improvements (General)	High
	Handicapped Centers	Medium
	Neighborhood Facilities	High
	Parks, Recreational Facilities	High
	Parking Facilities	Low
	Solid Waste Disposal Improvements	Low
	Fire Stations/Equipment	High
	Health Facilities	Medium
	Asbestos Removal	Low
	Clean-Up of Contaminated Sites	Low
	Interim Assistance	Low
	Non-Residential Historic Preservation	Medium
Public Services	Overall	High
	General	High
	Handicapped Services	Medium
	Legal Services	Low
	Transportation Services	Medium
	Substance Abuse Services	Medium
	Employment Training	High
	Health Services	High
	Mental Health Services	Low
	Screening for Lead-Based Paint/Lead Hazard	Low
Senior Programs	Overall	High
	Senior Centers	High
	Senior Services	High

City of Miami Beach
Application for Federal Funds
Fiscal Year 2004-2005

Non-Housing Community Development Needs		Priority
Youth Programs	Overall	High
	Youth Centers	High
	Child Care Centers	High
	Abused and Neglected Children Facilities	High
	Youth Services	High
	Child Care Services	High
	Abused and Neglected Children	High
Other	Overall	Low
	Urban Renewal Completion	Low
	CDBG Non-profit Organization Capacity Building	Low
	CDBG Assistance to Institutes of Higher Education	Low
	Repayments of Section 108 Loan Principal	High
	Unprogrammed Funds	Low
Planning and Administration	Overall	High

TABLE II: Housing Needs

Renter	Small Related Household	0-30% MFI 31-50% MFI 51-80% MFI	High Medium Low
	Large Related Household	0-30% MFI 31-50% MFI 51-80% MFI	High Medium Low
	Elderly Household	0-30% MFI 31-50% MFI 51-80% MFI	High Medium Low
	All Other Households	0-30% MFI 31-50% MFI 51-80% MFI	None None None
Owner	Owner	0-30% MFI 31-50% MFI 51-80% MFI	Low Medium Medium

TABLE III: Continuum of Care Gaps Analysis

Continuum of Care Gaps Analysis (Individuals)	Estimated Needs	Current Inventory	Unmet Need/Gap	Priority
Emergency Shelter Beds/Units	102	4	98	High
Transitional Housing Beds/Units	100	60	40	Medium
Permanent Housing Beds/Units	100	0	100	Medium
Supportive Services - Job Training	200	20	180	High
Supportive Services - Case Management	100	40	60	High
Supportive Services - Substance Abuse Treatment	100	20	80	Medium
Supportive Services - Mental Health Care	100	15	85	Medium
Supportive Services - Housing Placement	100	0	100	Medium
Supportive Services - Life Skills Training	150	25	125	Medium

Continuum of Care Gaps Analysis (Persons in Families With Children)	Estimated Needs	Current Inventory	Unmet Need/Gap	Priority
Emergency Shelter Beds/Units	100	0	100	High
Transitional Housing Beds/Units	100	40	60	High

Permanent Housing Beds/Units	100	0	100	Medium
Supportive Services - Job Training	35	0	35	High
Supportive Services - Case Management	35	0	35	High
Supportive Services - Child Care	80	0	80	High
Supportive Services - Substance Abuse Treatment	15	0	15	Medium
Supportive Services - Mental Health Care	10	0	10	Medium
Supportive Services - Housing Placement	35	0	35	High
Supportive Services - Life Skills Training	35	0	35	Medium

IV. INSTRUCTIONS FOR BENEFIT TO LOW AND MODERATE INCOME PERSONS (CDBG ONLY APPLICATIONS)

CDBG NATIONAL OBJECTIVES

In this section, state which *one* of the three National Objectives listed below will be addressed by the proposed activity or program. The activity should address only ONE of the objectives and not necessarily all three. The maximum number of points for this section depends on which national objective is selected. Do not exceed one page for this section.

National Objective A: Principally benefits low and moderate income persons. – 15 Points Maximum

National Objective B: Aids in the prevention or elimination of slums or blight. – 12 Points Maximum

National Objective C: Qualifies as a certified urgent need. – 10 Points Maximum

If National Objective A is selected, you must also describe how the activity will address ONE (not all) of the subcategories listed below.

(1) Area Benefit Activity – An Area Benefit Activity are those activities are carried out in a neighborhood consisting predominantly of LMI persons and provide services for such persons, yet could be available to other non-income eligible persons in the area.

(2) Limited Clientele Activity – A Limited Clientele Activity are those activities which benefit a specific group of people (rather than all the residents in a particular area) who is, or presumed to be income eligible. The specific groups presumed by HUD to be income-eligible include: abused children, battered persons, elderly persons, handicapped persons, homeless persons, illiterate persons, migrant farmworkers, and persons living with AIDS.

(3) Income Eligible Housing Activity – An income eligible Housing Activity is an activity which adds or improves a permanent residential structure wherein, upon completion, income eligible persons will occupy 51% or more of the housing units.

(4) Job Creation or Retention Activity – A Job Creation or Job Retention Activity is an activity which creates or retains permanent jobs, of which at least 51% are either taken by or available to income eligible persons.

IV. INSTRUCTIONS FOR BENEFIT TO HOMELESS PERSONS (ESG)

In this section, and for ESG applicants only, state how the proposed activity will benefit the homeless of Miami Beach and how the activity will address the Continuum of Care for homeless. In this section, the narrative must state which ONE of the following eligible ESG activities listed below will be accomplished with the

proposed activity or program. The narrative should address just ONE not all of the eligible activities. For detailed information, refer to the ESG regulations (Appendix 2).

- Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless.
- Provision of essential services to the homeless. (Refer to Appendix 2 for specific details and limitations on these services).
- Payment for shelter, maintenance, operation, rent, repairs, security, fuel, equipment), insurance, utilities, food and furnishings. Not more than 10 percent of the grant amount may be used for costs of staff.
- Developing and implementing homeless prevention activities.

V. INSTRUCTIONS FOR PROJECT DESCRIPTION

This section of the application will allow you to provide an overview of the proposed program. In it, describe the project/activity that your organization will undertake to address the national objective selected. The narrative must include the following:

Project Description – Provide a description of the activity or project. State the location (you may use a physical address, census tracts, geographic areas) of the activity or project and why its geographic location affects/impacts the delivery of services. (Refer to the maps in Appendix 5 for Census Tracts).

Relation to Other Public or Private Projects - Describe how your project will relate to other publicly or privately funded projects underway, or proposed, for the project area. Describe the organization's plans for providing non-CDBG/ESG funds for future subsequent years. If the cost of implementing and operating your proposal will be shared by other funding sources, you must provide a cost allocation plan and a cost sharing budget that discusses all sources of funds. A cost allocation plan is a document identifying and justifying the procedure for accumulating and distributing the percentage share of allowable costs between each funding source and details the method of allocation used.

For ESG Applicants: Indicate if there is a physical location on Miami Beach from which to serve Miami Beach residents. (Post Office boxes are not considered to be physical locations from which to provide support services.) If there is not a physical location for homeless persons on Miami Beach, state what outreach methods and/or transportation will be used to provide services for the homeless on Miami Beach.

Clearly describe how the proposed activities fall within the City of Miami Beach's Continuum of Care as listed in the City's Consolidated Plan priorities. (Refer to Table III in the section above). (Attach separate sheet if necessary)

Describe your organization's opportunities for homeless individuals to participate in:

- A. Your organization's policymaking entity.
- B. Providing work or services at your facilities.

Do not exceed four pages for this section which is worth a maximum of 15 points.

VI. INSTRUCTIONS FOR PERFORMANCE MEASURES AND PROGRAM OUTCOMES

In this section, list the quantitative goals that will be accomplished by undertaking the proposed activity or program. State what the unit of measure for the service or activity will be. Use quantifiable units (such as raw numbers, percents, etc) and state how the outcomes will be tracked over the program year, and how the outcomes will be documented by the agency/organization on a monthly basis to reach the annual goal. Do not exceed two pages for this section. This section is worth 15 points maximum.

Any ONE of the HUD-generated accomplishments listed below may be used in the narrative to describe the project outcome measures of the proposed activity.

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> Businesses | <input type="checkbox"/> Elderly | <input type="checkbox"/> Elderly Households | <input type="checkbox"/> Feet of Public Utilities |
| <input type="checkbox"/> Households (General) | <input type="checkbox"/> Housing Units | <input type="checkbox"/> Large Households | <input type="checkbox"/> Organizations |
| <input type="checkbox"/> People (General) | <input type="checkbox"/> Public Facilities | <input type="checkbox"/> Small Households | <input type="checkbox"/> Youth |

VII. INSTRUCTIONS FOR ORGANIZATION CAPACITY AND EXPERIENCE

In this section, the narrative should address the organizational capacity of the proposed program or activity. Identify the key administrative and professional staff that will be working to carry out the proposed activity. A brief overview or history of the agency may be included to support the organization's capacity and experience in working with the proposed activity or program. Include information regarding specialized certifications, education, licensing, or other specialized qualifications. If staff services are to be contracted out, describe the contractor selection process and whether the contract will be on a "flat fee" or "hourly" basis.

Information regarding the facility or location of the proposed activity may also be included in this section only if the information states how the location or facility is specifically relevant to this project. Include other information that will demonstrate the organizational capacity and experience of the staff and agency. Do not exceed a maximum of four pages. This section is worth a maximum of 10 points.

VIII - X. INSTRUCTIONS FOR BUDGET PAGES

The budget part of the application contains three components: the Budget Summary Sheet, the Budget Itemization Sheet, and a Budget Narrative. Each proposed activity must have a Budget Summary and Budget Itemization completed with a Budget Narrative stating the reason for the cost. If CDBG or ESG funds are being requested as a local match, please include additional Budget Summary and Budget Itemization sheets showing: the breakdown of the other funding sources, which activities the other funding sources will fund, and when the other funding sources will be used. The Project Name is the name of the program for which funds are requested, not that of the agency.

Reasonableness Test: Costs may be budgeted only if they are allowable and necessary to carry out the expressed and approved purposes of the activity. All costs must be reasonable in nature and amount, and cannot exceed that which would be incurred by a fiscally prudent person.

The budget summary and the budget itemization sheets must be completed in their entirety on the enclosed forms or their facsimiles. The **Budget Summary** page is a summary of the information contained in the Budget Itemization page(s). The Budget Summary also provides information as to the amount of the grant being requested. The amount in the Budget Summary page should be the same amount as the amount

requested on the Cover Page. Lastly, the summary page requests the dollar amount requested for Operating Expenses, for Personnel Costs, and what the percentage is for Administrative costs. The percentage is determined by dividing the amount for Personnel Costs (salaries, fringe, etc) with the amount requested for programming dollars or operating costs (all other costs other than salaries, fringe and capital. Capital costs are those related to property and equipment. Generally, CDBG funds are not used to purchase equipment). In order to receive the highest points possible in this section, the percentage should be as close to zero percent as possible. The Budget Summary page is worth a maximum of 10 points.

Depending on the number of categories listed in the Budget Summary page, an applicant may EITHER use as a separate Budget Itemization page for each category listed on the Budget Summary page, or clearly delineate on the itemization page the separate line items. Additional blank copies of the Budget Itemization page may be used to separate each category from the Budget Summary.

The itemization page will break down into more detail each category listed on the summary page. For example, the summary page will just list "Vouchers\$250". The itemizations will break down the categories as the number of vouchers and the unit cost of the voucher. The basic format used is shown as the number of units multiplied by the unit cost for the activity. For example: 10 Child Care vouchers x \$25/voucher = \$250. Calculations should be included to demonstrate how costs were derived. In the detail and calculations, do not commingle one time costs with recurring costs. Care should be used to ensure that all columns add up correctly and that all rows add up correctly. The dollar amounts should correspond to the amount on the Budget Summary. The Budget Itemization is worth a maximum of 10 points.

If the cost of items will be shared by other funding sources, a cost allocation plan will need to be included. A cost allocation plan is the document identifying and justifying the procedure for accumulating and distributing allowable costs in the budget, together with the allocation methods used. There are various cost distribution methods, which can be used to determine the percentage share of costs between each funding source. The method applied should be the most rational and systematic in light of the purposes of the grant request.

The Budget Narrative should provide a brief description of category and a reason for each expense. All items must be clearly explained. The Budget Narrative should not exceed two pages. This section of the proposal is worth a maximum of 10 points.

Use the program income estimation sheet *only if* the proposed activity will generate income for the project. **Program Income** is defined as the expenditure of CDBG funds that directly or indirectly result in additional earned income (buy/sell transaction, rental income, sales of inventory, etc) and which are retained by the sub-recipient agency for the continued operation of the project. If the CDBG activity will generate program income, and only if the program income will be expended for eligible CDBG activities previously approved by the City, it is the City's intention, within the context of the CDBG laws and regulations (24 CFR 570.504 (c)), to approve a subrecipient's retention of program income. Program income must be estimated with reasonable accuracy, and the subrecipient must complete the sheet labeled "Estimated Program Income" and detail the source and proposed use by budget categories and line items. Specific line item costs to be charged to program income must be justified to the same degree as basic CDBG award costs.

Complete the Estimated Program Income sheet only if your CDBG funds will generate program income to be used as part of the operating costs of the activity or project. This sheet is a summary of the Program Income estimated to be generated by the CDBG activity, and how such Program Income will be expended on eligible CDBG categories.

XI. INSTRUCTIONS FOR LEVERAGED FUNDS OR MATCHING SOURCES

Applicants will receive 10 Bonus Points if they can demonstrate a one-to-one (or higher) dollar ratio of a leveraged match. Provide documentation of funding already received for Fiscal Year 2004-2005 with the Leveraged Match Funds sheet.

XII. INSTRUCTIONS FOR ACKNOWLEDGEMENT LETTER AND DISCLAIMER

The applicant shall incorporate into just the ORIGINAL application the Acknowledgement letter and Disclaimer. Only the Acknowledgment Letter shall be reproduced onto the agency's official letter head. Both the Acknowledgment Letter and Disclaimer shall be signed by the authorized signatory for the agency. Include name and title of signatory. Include the Acknowledgment Letter and Disclaimer as Attachment IV of the proposal package.

XIII. INSTRUCTIONS FOR ATTACHMENTS

For the original and all four copies, attach the following documents:

- Attach a complete organizational budget as Attachment I, "Current Operating Budget".
- Attach an updated and complete list of the board of directors/governors with names, titles (or area of expertise), office held (if applicable), and length of service.
- Attach the most recent copy of Financial Statement or Audit of agency.

For just the original application, attach the following documents:

- Affidavit of Compliance with federal, state and local regulations
- Attach proof of Federal Tax Identification
- Letter or certification of Not-for-Profit and Tax Exempt status, if applicable

APPLICATION DEADLINE DATE:

MONDAY, MARCH 1, 2004, 5:00 P.M.

NOTE: LATE APPLICATIONS WILL NOT BE ACCEPTED.

APPENDIX 1

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) REGULATIONS

SUBCHAPTER C—COMMUNITY FACILITIES

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart A—General Provisions

- Sec.
570.1 Purpose and primary objective.
570.3 Definitions.
570.4 Allocation of funds.
570.5 Waivers.

Subpart B [Reserved]

Subpart C—Eligible Activities

- 570.200 General policies.
570.201 Basic eligible activities.
570.202 Eligible rehabilitation and preservation activities.
570.203 Special economic development activities.
570.204 Special activities by Community-Based Development Organizations (CBDs).
570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.
570.206 Program administrative costs.
570.207 Ineligible activities.
570.208 Criteria for national objectives.
570.209 Guidelines for evaluating and selecting economic development projects.

Subpart D—Entitlement Grants

- 570.300 General.
570.301 Activity locations and float-funding.
570.302 Submission requirements.
570.303 Certifications.
570.304 Making of grants.
570.307 Urban counties.
570.308 Joint requests.
570.309 Restriction on location of activities.

Subpart E—Special Purpose Grants

- 570.400 General.
570.401 Community adjustment and economic diversification planning assistance.
570.402 Technical assistance awards.
570.403 New Communities.
570.404 Historically Black colleges and universities program.
570.405 The insular areas.
570.406 Formula miscalculation grants.
570.410 Special Projects Program.
570.411 Joint Community Development Program.
570.415 Community Development Work Study Program.
570.416 Hispanic-serving institutions work study program.

Subpart F—Small Cities Program

- 570.420 General.
570.421 New York Small Cities Program design.
570.422 Applications from joint applicants.
570.423 Application for the HUD-administered New York Small Cities Grants.
570.424 Grants for imminent threats to public health and safety.
570.425 HUD review and actions on applications for New York State applicants.
570.426 Program income.
570.427 Program amendments.
570.428 Reallocated funds.
570.429 Hawaii general and grant requirements.
570.430 Hawaii program operation requirements.
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- APPENDIX A TO PART 570—GUIDELINES AND OBJECTIVES FOR EVALUATING PROJECT COSTS AND FINANCIAL REQUIREMENTS
- AUTHORITY: 42 U.S.C. 3535(d) and 5301-5320.
- SOURCE: 40 FR 24693, June 9, 1975, unless otherwise noted.

Subpart A—General Provisions

SOURCE: 53 FR 34437, Sept. 6, 1988, unless otherwise noted.

§ 570.1 Purpose and primary objective.

(a) This part describes policies and procedures applicable to the following programs authorized under title I of the Housing and Community Development Act of 1974, as amended:

- (1) Entitlement grants program (subpart D);
- (2) Small Cities program: HUD administered CDBG nonentitlement funds (subpart F);
- (3) State program: State-administered CDBG nonentitlement funds (subpart I);

(4) Special Purpose Grants (subpart E);

(5) Urban Development Action Grant program (subpart G); and

(6) Loan Guarantees (subpart M).

(b) Subparts A, C, J, K, and O apply to all programs in paragraph (a) except as modified or limited under the provisions of these subparts or the applicable program regulations. In the application of the subparts to Special Purpose Grants or the Urban Development Action Grant program, the reference to funds in the form of grants in the term "CDBG funds", as defined in § 570.3, shall mean the grant funds under those programs. The subparts do not apply to the State program (subpart I) except to the extent expressly referred to.

(c) The primary objective of the programs authorized under title I of the Housing and Community Development Act of 1974, as amended, is described in section 101(c) of the Act (42 U.S.C. 5301(c)).

[53 FR 34437, Sept. 6, 1988, as amended at 56 FR 56126, Oct. 31, 1991; 61 FR 11475, Mar. 20, 1996]

§ 570.3 Definitions.

The terms *HUD* and *Secretary* are defined in 24 CFR part 5. All of the following definitions in this section that rely on data from the United States Bureau of the Census shall rely upon the data available from the latest decennial census.

Act means title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 *et seq.*).

Age of housing means the number of year-round housing units, as further defined in section 102(a)(11) of the Act.

Applicant means a State, unit of general local government, or an Indian tribe which makes application pursuant to the provisions of subpart E, F, G or M.

Buildings for the general conduct of government shall have the meaning provided in section 102(a)(21) of the Act.

CDBG funds means Community Development Block Grant funds, including funds received in the form of grants under subpart D, F, or § 570.405 of this part, funds awarded under section 108(g) of the Housing and Community Development Act of 1974, loans guaranteed under subpart M of this part,

urban renewal surplus grant funds, and program income as defined in § 570.500(a).

Chief executive officer of a State or unit of general local government means the elected official or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the "chief executive officer" of a unit of general local government are: the elected mayor of a municipality; the elected county executive of a county; the chairperson of a county commission or board in a county that has no elected county executive; and the official designated pursuant to law by the governing body of a unit of general local government.

City means the following:

(1) For purposes of Entitlement Community Development Block Grant and Urban Development Action Grant eligibility:

(i) Any unit of general local government that is classified as a municipality by the United States Bureau of the Census, or

(ii) Any other unit of general local government that is a town or township and that, in the determination of the Secretary:

(A) Possesses powers and performs functions comparable to those associated with municipalities;

(B) Is closely settled (except that the Secretary may reduce or waive this requirement on a case by case basis for the purposes of the Action Grant program); and

(C) Contains within its boundaries no incorporated places as defined by the United States Bureau of the Census that have not entered into cooperation agreements with the town or township for a period covering at least 3 years to undertake or assist in the undertaking of essential community development and housing assistance activities. The determination of eligibility of a town or township to qualify as a city will be based on information available from the United States Bureau of the Census and information provided by the town or township and its included units of general local government.

(2) For purposes of Urban Development Action Grant eligibility only, Guam, the Virgin Islands, American

Samoa, the Commonwealth of the Northern Mariana Islands, the counties of Kauai, Maui, and Hawaii in the State of Hawaii, and Indian tribes that are eligible recipients under the State and Local Government Fiscal Assistance Act of 1972 and located on reservations in Oklahoma as determined by the Secretary of the Interior or in Alaskan Native Villages.

Community Development Financial Institution has the same meaning as used in the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 note).

Consolidated plan. The plan prepared in accordance with 24 CFR part 91, which describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs, including the CDBG program. An approved consolidated plan means a consolidated plan that has been approved by HUD in accordance with 24 CFR part 91.

Discretionary grant means a grant made from the various Special Purpose Grants in accordance with subpart E of this part.

Entitlement amount means the amount of funds which a metropolitan city is entitled to receive under the Entitlement grant program, as determined by formula set forth in section 106 of the Act.

Extent of growth lag shall have the meaning provided in section 102(a)(12) of the Act.

Extent of housing overcrowding shall have the meaning provided in section 102(a)(10) of the Act.

Extent of poverty means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time and the latest reports from the Office of Management and Budget. For purposes of this part, the Secretary has determined that it is neither feasible nor appropriate to make adjustments at this time in the computations of "extent of poverty" for regional or area variations in income and cost of living.

Family means all persons living in the same household who are related by birth, marriage or adoption.

Household means all the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

Income. For the purpose of determining whether a family or household is low- and moderate-income under subpart C of this part, grantees may select any of the three definitions listed below for each activity, except that integrally related activities of the same type and qualifying under the same paragraph of § 570.208(a) shall use the same definition of income. The option to choose a definition does not apply to activities that qualify under § 570.208(a)(1) (Area benefit activities), except when the recipient carries out a survey under § 570.208(a)(1)(vi). Activities qualifying under § 570.208(a)(1) generally must use the area income data supplied to recipients by HUD. The three definitions are as follows:

(i)(i) "Annual income" as defined under the Section 8 Housing Assistance Payments program at 24 CFR 813.106 (except that if the CDBG assistance being provided is homeowner rehabilitation under § 570.202, the value of the homeowner's primary residence may be excluded from any calculation of Net Family Assets); or

(ii) Annual income as reported under the Census long-form for the most recent available decennial Census. This definition includes:

(A) Wages, salaries, tips, commissions, etc.;

(B) Self-employment income from own nonfarm business, including proprietorships and partnerships;

(C) Farm self-employment income;

(D) Interest, dividends, net rental income, or income from estates or trusts;

(E) Social Security or railroad retirement;

(F) Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs;

(G) Retirement, survivor, or disability pensions; and

(H) Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony; or

(iii) Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 for individual Federal annual income tax purposes.

(2) Estimate the annual income of a family or household by projecting the prevailing rate of income of each person at the time assistance is provided for the individual, family, or household (as applicable). Estimated annual income shall include income from all family or household members, as applicable. Income or asset enhancement derived from the CDBG-assisted activity shall not be considered in calculating estimated annual income.

Indian tribe shall have the meaning provided in section 102(a)(17) of the Act.

Low- and moderate-income household means a household having an income equal to or less than the Section 8 low-income limit established by HUD.

Low- and moderate-income person means a member of a family having an income equal to or less than the Section 8 low-income limit established by HUD. Unrelated individuals will be considered as one-person families for this purpose.

Low-income household means a household having an income equal to or less than the Section 8 very low-income limit established by HUD.

Low-income person means a member of a family that has an income equal to or less than the Section 8 very low-income limit established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

Metropolitan area shall have the meaning provided in section 102(a)(3) of the Act.

Metropolitan city shall have the meaning provided in section 102(a)(4) of the Act.

Microenterprise shall have the meaning provided in section 102(a)(22) of the Act.

Moderate-income household means a household having an income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD.

Moderate-income person means a member of a family that has an income

equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD. Unrelated individuals shall be considered as one-person families for this purpose.

Nonentitlement amount means the amount of funds which is allocated for use in a State's nonentitlement areas as determined by formula set forth in section 106 of the Act.

Nonentitlement area shall have the meaning provided in section 102(a)(7) of the Act.

Population means the total resident population based on data compiled and published by the United States Bureau of the Census available from the latest census or which has been upgraded by the Bureau to reflect the changes resulting from the Boundary and Annexation Survey, new incorporations and consolidations of governments pursuant to § 570.4, and which reflects, where applicable, changes resulting from the Bureau's latest population determination through its estimating technique using natural changes (birth and death) and net migration, and is referable to the same point or period in time.

Small business means a business that meets the criteria set forth in section 3(a) of the Small Business Act (15 U.S.C. 631, 636, 637).

State shall have the meaning provided in section 102(a)(2) of the Act.

Unit of general local government shall have the meaning provided in section 102(a)(1) of the Act.

Urban county shall have the meaning provided in section 102(a)(6) of the Act. For the purposes of this definition, HUD will determine whether the county's combined population contains the required percentage of low- and moderate-income persons by identifying the number of persons that resided in applicable areas and units of general local government based on data from the most recent decennial census, and using income limits that would have applied for the year in which that census was taken.

Urban Development Action Grant (UDAG) means a grant made by the

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Secretary pursuant to section 119 of the Act and subpart G of this part.

[53 FR 34437, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 56 FR 56126, Oct. 31, 1991; 60 FR 1915, 1943, Jan. 5, 1995; 60 FR 56909, Nov. 9, 1995; 61 FR 5209, Feb. 9, 1996; 61 FR 11475, Mar. 20, 1996; 61 FR 18674, Apr. 29, 1996]

§ 570.4 Allocation of funds.

(a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in non-entitlement areas, the reallocation of funds, and the allocation of appropriated funds for discretionary grants under the Secretary's Fund shall be governed by the policies and procedures described in sections 106 and 107 of the Act.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 106 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under section 106 of the Act for any Federal fiscal year, HUD will recognize corporate status and geographical boundaries and the status of metropolitan areas and central cities effective as of July 1 preceding such Federal Fiscal Year, subject to the following limitations:

(1) With respect to corporate status as certified by the applicable State and available for processing by the Census Bureau as of such date;

(2) With respect to boundary changes or annexations, as are used by the Census Bureau in preparing population estimates for all general purpose governmental units and are available for processing by the Census Bureau as of such date, except that any such boundary changes or annexations which result in the population of a unit of general local government reaching or exceeding 50,000 shall be recognized for this purpose whether or not such changes are used by the Census Bureau in preparing such population estimates; and

(3) With respect to the status of Metropolitan Statistical Areas and central cities, as officially designated by the Office of Management and Budget as of such date.

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(d) In determining whether a county qualifies as an urban county, and in computing entitlement amounts for urban counties, the demographic values of population, poverty, housing overcrowding, and age of housing of any Indian tribes located within the county shall be excluded. In allocating amounts to States for use in non-entitlement areas, the demographic values of population, poverty, housing overcrowding and age of housing of all Indian tribes located in all nonentitled areas shall be excluded. It is recognized that all such data on Indian tribes are not generally available from the United States Bureau of the Census and that missing portions of data will have to be estimated. In accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the data's point or period of time and shall use the best judgement possible in adjusting such data to reflect the same point or period of time as the overall data from which the Indian tribes are being deducted, so that such deduction shall not create an imbalance with those overall data.

(e) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.509, Grant closeout procedures, shall be considered as funds available for reallocation unless the appropriation under which the funds were provided to the Department has lapsed.

§ 570.5 Waivers.

HUD's authority for the waiver of regulations and for the suspension of requirements to address damage in a Presidentially declared disaster area is described in 24 CFR part 5 and in section 122 of the Act, respectively.

[61 FR 11476, Mar. 20, 1996]

Subpart B [Reserved]

Subpart C—Eligible Activities

SOURCE: 53 FR 34439, Sept. 6, 1988, unless otherwise noted.

§ 570.200 General policies.

(a) *Determination of eligibility.* An activity may be assisted in whole or in part with CDBG funds only if all of the following requirements are met:

(1) *Compliance with section 105 of the Act.* Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this subpart.

(2) *Compliance with national objectives.* Grant recipients under the Entitlement and HUD-administered Small Cities programs must certify that their projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the recipient certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. Consistent with the foregoing, each recipient under the Entitlement and HUD-administered Small Cities programs must ensure, and maintain evidence, that each of its activities assisted with CDBG funds meets one of the three national objectives as contained in its certification. Criteria for determining whether an activity addresses one or more of these objectives are contained at § 570.208.

(3) *Compliance with the primary objective.* The primary objective of the Act is described in section 101(c) of the Act. Consistent with this objective, Entitlement recipients and recipients of the HUD-administered Small Cities program in Hawaii must ensure that over a period of time specified in their certification not to exceed three years, not less than 70 percent of the aggregate of CDBG fund expenditures shall be for activities meeting the criteria under § 570.208(a) or § 570.208(d)(5) or (6) for benefitting low- and moderate-income persons; Insular area recipients must meet this requirement for each separate grant. The requirements for the HUD-administered Small Cities

program in New York are in § 570.420(e)(2). Additional requirements for the HUD-administered Small Cities program in Hawaii are in § 570.430(e). In determining the percentage of funds expended for such activities:

(i) Cost of administration and planning eligible under § 570.205 and § 570.206 will be assumed to benefit low and moderate income persons in the same proportion as the remainder of the CDBG funds and, accordingly shall be excluded from the calculation;

(ii) Funds deducted by HUD for repayment of urban renewal temporary loans pursuant to § 570.802(b) shall be excluded;

(iii) Funds expended for the repayment of loans guaranteed under the provisions of subpart M shall also be excluded;

(iv) Funds expended for the acquisition, new construction or rehabilitation of property for housing that qualifies under § 570.208(a)(3) shall be counted for this purpose but shall be limited to an amount determined by multiplying the total cost (including CDBG and non-CDBG costs) of the acquisition, construction or rehabilitation by the percent of units in such housing to be occupied by low and moderate income persons.

(v) Funds expended for any other activities qualifying under § 570.208(a) shall be counted for this purpose in their entirety.

(4) *Compliance with environmental review procedures.* The environmental review procedures set forth at 24 CFR part 58 must be completed for each activity (or project as defined in 24 CFR part 58), as applicable.

(5) *Cost principles.* Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with OMB Circulars A-87, "Cost Principles for State, Local and Indian Tribal Governments"; A-122, "Cost Principles for Non-profit Organizations"; or A-21, "Cost Principles for Educational Institutions," as applicable.¹ All items of cost listed in Attachment B of these Circulars that require prior Federal

¹These circulars are available from the American Communities Center by calling the following toll-free numbers: (800) 998-9999 or (800) 483-2209 (TDD).

agency approval are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in Attachment A of such circulars and are otherwise eligible under this subpart C, except for the following:

(i) Depreciation methods for fixed assets shall not be changed without HUD's specific approval or, if charged through a cost allocation plan, the Federal cognizant agency.

(ii) Fines and penalties (including punitive damages) are unallowable costs to the CDBG program.

(iii) Pre-award costs are limited to those authorized under paragraph (h) of this section.

(b) *Special policies governing facilities.* The following special policies apply to:

(1) *Facilities containing both eligible and ineligible uses.* A public facility otherwise eligible for assistance under the CDBG program may be provided with CDBG funds even if it is part of a multiple use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

Allowable costs are limited to those attributable to the eligible portion of the building or facility.

(2) *Fees for use of facilities.* Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges such as excessive membership fees, which will have the effect of precluding low and moderate income persons from using the facilities, are not permitted.

(c) *Special assessments under the CDBG program.* The following policies relate to special assessments under the CDBG program:

(1) *Definition of special assessment.* The term "special assessment" means the recovery of the capital costs of a public improvement, such as streets, water or sewer lines, curbs, and gutters, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the

installation of a public improvement, or a one-time charge made as a condition of access to a public improvement. This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes, and does not include periodic charges based on the use of a public improvement, such as water or sewer user charges, even if such charges include the recovery of all or some portion of the capital costs of the public improvement.

(2) *Special assessments to recover capital costs.* Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:

(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate income. Such assessments constitute program income.

(ii) Special assessments to recover the non-CDBG portion may be made provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate income persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments are not program income.

(3) *Public improvements not initially assisted with CDBG funds.* The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments provided:

(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this part including environmental, citizen participation and Davis-Bacon requirements;

(ii) The installation of the public improvement meets a criterion for national objectives in § 570.208(a)(1), (b), or (c); and

(iii) The requirements of § 570.200(c)(2)(ii) are met.

(d) *Consultant activities.* Consulting services are eligible for assistance under this part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Employer-employee type of relationship.* No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the equivalent of the daily rate paid for Level IV of the Executive Schedule. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

(2) *Independent contractor relationship.* Consultant services provided under an independent contractor relationship are governed by the procurement requirements in 24 CFR 85.36, and are not subject to the compensation limitation of Level IV of the Executive Schedule.

(e) *Recipient determinations required as a condition of eligibility.* In several instances under this subpart, the eligibility of an activity depends on a special local determination. Recipients shall maintain documentation of all such determinations. A written determination is required for any activity carried out under the authority of §§ 570.201(f), 570.201(i)(2), 570.201(p), 570.201(q), 570.202(b)(3), 570.206(f), 570.209, and 570.309.

(f) *Means of carrying out eligible activities.* (1) Activities eligible under this subpart, other than those authorized under § 570.204(a), may be undertaken, subject to local law:

(i) By the recipient through:

(A) Its employees, or

(B) Procurement contracts governed by the requirements of 24 CFR 85.36; or

(ii) Through loans or grants under agreements with subrecipients, as defined at § 570.500(c); or

(iii) By one or more public agencies, including existing local public agen-

cies, that are designated by the chief executive officer of the recipient.

(2) Activities made eligible under § 570.204(a) may only be undertaken by entities specified in that section.

(g) *Limitation on planning and administrative costs.* No more than 20 percent of the sum of any grant, plus program income, shall be expended for planning and program administrative costs, as defined in §§ 570.205 and 507.206, respectively. Recipients of entitlement grants under subpart D of this part shall conform with this requirement by limiting the amount of CDBG funds obligated for planning plus administration during each program year to an amount no greater than 20 percent of the sum of its entitlement grant made for that program year (if any) plus the program income received by the recipient and its subrecipients (if any) during that program year.

(h) *Reimbursement for pre-award costs.* The effective date of the grant agreement is the program year start date or the date that the consolidated plan is received by HUD, whichever is later. For a Section 108 loan guarantee, the effective date of the grant agreement is the date of HUD execution of the grant agreement amendment for the particular loan guarantee commitment.

(i) Prior to the effective date of the grant agreement, a recipient may incur costs or may authorize a subrecipient to incur costs, and then after the effective date of the grant agreement pay for those costs using its CDBG funds, provided that:

(i) The activity for which the costs are being incurred is included, prior to the costs being incurred, in a consolidated plan action plan, an amended consolidated plan action plan, or an application under subpart M of this part, except that a new entitlement grantee preparing to receive its first allocation of CDBG funds may incur costs necessary to develop its consolidated plan and undertake other administrative actions necessary to receive its first grant, prior to the costs being included in its consolidated plan;

(ii) Citizens are advised of the extent to which these pre-award costs will affect future grants;

(iii) The costs and activities funded are in compliance with the requirements of this part and with the Environmental Review Procedures stated in 24 CFR part 58;

(iv) The activity for which payment is being made complies with the statutory and regulatory provisions in effect at the time the costs are paid for with CDBG funds;

(v) CDBG payment will be made during a time no longer than the next two program years following the effective date of the grant agreement or amendment in which the activity is first included; and

(vi) The total amount of pre-award costs to be paid during any program year pursuant to this provision is no more than the greater of 25 percent of the amount of the grant made for that year or \$300,000.

(2) Upon the written request of the recipient, HUD may authorize payment of pre-award costs for activities that do not meet the criteria at paragraph (h)(1)(v) or (h)(1)(vi) of this section, if HUD determines, in writing, that there is good cause for granting an exception upon consideration of the following factors, as applicable:

(i) Whether granting the authority would result in a significant contribution to the goals and purposes of the CDBG program;

(ii) Whether failure to grant the authority would result in undue hardship to the recipient or beneficiaries of the activity;

(iii) Whether granting the authority would not result in a violation of a statutory provision or any other regulatory provision;

(iv) Whether circumstances are clearly beyond the recipient's control; or

(v) Any other relevant considerations.

(i) *Urban Development Action Grant.* Grant assistance may be provided with Urban Development Action Grant funds, subject to the provisions of subpart G, for:

(1) Activities eligible for assistance under this subpart; and

(2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

(j) *Constitutional prohibition.* In accordance with First Amendment Church/State Principles, as a general rule, CDBG assistance may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. The following restrictions and limitations therefore apply to the use of CDBG funds.

(1) CDBG funds may not be used for the acquisition of property or the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures to be used for religious purposes or which will otherwise promote religious interests. This limitation includes the acquisition of property for ownership by primarily religious entities and the construction or rehabilitation (including historic preservation and removal of architectural barriers) of structures owned by such entities (except as permitted under paragraph (j)(2) of this section with respect to rehabilitation and under paragraph (j)(4) of this section with respect to repairs undertaken in connection with public services) regardless of the use to be made of the property or structure. Property owned by primarily religious entities may be acquired with CDBG funds at no more than fair market value for a non-religious use.

(2) CDBG funds may be used to rehabilitate buildings owned by primarily religious entities to be used for a wholly secular purpose under the following conditions:

(i) The building (or portion thereof) that is to be improved with the CDBG assistance has been leased to an existing or newly established wholly secular entity (which may be an entity established by the religious entity);

(ii) The CDBG assistance is provided to the lessee (and not the lessor) to make the improvements;

(iii) The leased premises will be used exclusively for secular purposes available to persons regardless of religion;

(iv) The lease payments do not exceed the fair market rent of the premises as they were before the improvements are made;

(v) The portion of the cost of any improvements that also serve a non-

leased part of the building will be allocated to and paid for by the lessor;

(vi) The lessor enters into a binding agreement that unless the lessee, or a qualified successor lessee, retains the use of the leased premises for a wholly secular purpose for at least the useful life of the improvements, the lessor will pay to the lessee an amount equal to the residual value of the improvements;

(vii) The lessee must remit the amount received from the lessor under paragraph (j)(2)(vi) of this section to the recipient or subrecipient from which the CDBG funds were derived.

The lessee can also enter into a management contract authorizing the lessor religious entity to use the building for its intended secular purpose, e.g., homeless shelter, provision of public services. In such case, the religious entity must agree in the management contract to carry out the secular purpose in a manner free from religious influences in accordance with the principles set forth in paragraph (j)(3) of this section.

(3) As a general rule, CDBG funds may be used for eligible public services to be provided through a primarily religious entity, where the religious entity enters into an agreement with the recipient or subrecipient from which the CDBG funds are derived that, in connection with the provision of such services:

(i) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(ii) It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;

(iii) It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services;

(4) Where the public services provided under paragraph (j)(3) of this section are carried out on property owned by the primarily religious entity, CDBG

funds may also be used for minor repairs to such property which are directly related to carrying out the public services where the cost constitutes in dollar terms only an incidental portion of the CDBG expenditure for the public services.

[53 FR 34439, Sept. 6, 1988, as amended at 54 FR 47031, Nov. 8, 1989; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56910, Nov. 9, 1995; 61 FR 11476, Mar. 20, 1996; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000]

§ 570.201 Basic eligible activities.

CDBG funds may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by the recipient, or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 570.207.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.504.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 570.207(a), carried out by the recipient or other public or private nonprofit entities. (However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements, including those provided for in § 570.207(a)(1).) In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments

intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and not subject to the prohibition of new housing construction described in § 570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in § 570.204 may acquire title to public facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in § 570.200(b).

(d) *Clearance activities.* Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD-assisted housing units may be undertaken only with the prior approval of HUD.

(e) *Public services.* Provision of public services (including labor, supplies, and materials) including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare (but excluding the provision of income payments identified under § 570.207(b)(4)), homebuyer downpayment assistance, or recreational needs. To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the State in which it is located) in the 12 calendar months before the submission of the action plan. (An exception to

this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the unit of general local government.) The amount of CDBG funds used for public services shall not exceed paragraphs (e)(1) or (2) of this section, as applicable:

(1) The amount of CDBG funds used for public services shall not exceed 15 percent of each grant, except that for entitlement grants made under subpart D of this part, the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in § 570.500(a). For entitlement grants under subpart D of this part, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year.

(2) A recipient which obligated more CDBG funds for public services than 15 percent of its grant funded from Federal fiscal year 1982 or 1983 appropriations (excluding program income and any assistance received under Public Law 98-8), may obligate more CDBG funds than allowable under paragraph (e)(1) of this section, so long as the total amount obligated in any program year does not exceed:

(i) For an entitlement grantee, 15% of the program income it received during the preceding program year; plus

(ii) A portion of the grant received for the program year which is the highest of the following amounts:

(A) The amount determined by applying the percentage of the grant it obligated for public services in the 1982 program year against the grant for its current program year;

(B) The amount determined by applying the percentage of the grant it obligated for public services in the 1983 program year against the grant for its current program year;

(C) The amount of funds it obligated for public services in the 1982 program year; or,

(D) The amount of funds it obligated for public services in the 1983 program year.

(f) *Interim assistance.* (1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and

(ii) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds;

(ii) The clearance of streets, including snow removal and similar activities, and

(iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) *Payment of non-Federal share.* Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) *Relocation.* Relocation payments and other assistance for permanently and temporarily relocated individuals, families, businesses, nonprofit organizations, and farm operations where the

assistance is (1) required under the provisions of § 570.606 (b) or (c); or (2) determined by the grantee to be appropriate under the provisions of § 570.606(d).

(j) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families displaced by program activities assisted under this part.

(k) *Housing services.* Housing services, as provided in section 105(a)(21) of the Act (42 U.S.C. 5305(a)(21)).

(l) *Privately owned utilities.* CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

(m) *Construction of housing.* CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.

(n) *Homeownership assistance.* CDBG funds may be used to provide direct homeownership assistance to low- or moderate-income households in accordance with section 105(a) of the Act.

(o)(1) The provision of assistance either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development by:

(i) Providing credit, including, but not limited to, grants, loans, loan guarantees, and other forms of financial support, for the establishment, stabilization, and expansion of microenterprises;

(ii) Providing technical assistance, advice, and business support services to owners of microenterprises and persons developing microenterprises; and

(iii) Providing general support, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, to owners of microenterprises and persons developing microenterprises.

(2) Services provided this paragraph (o) shall not be subject to the restrictions on public services contained in paragraph (e) of this section.

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(3) For purposes of this paragraph (o), "persons developing microenterprises" means such persons who have expressed interest and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.

(4) Assistance under this paragraph (o) may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this paragraph (o).

(p) *Technical assistance.* Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities. (The recipient must determine, prior to the provision of the assistance, that the activity for which it is attempting to build capacity would be eligible for assistance under this subpart C, and that the national objective claimed by the grantee for this assistance can reasonably be expected to be met once the entity has received the technical assistance and undertakes the activity.) Capacity building for private or public entities (including grantees) for other purposes may be eligible under § 570.205.

(q) *Assistance to institutions of higher education.* Provision of assistance by the recipient to institutions of higher education when the grantee determines that such an institution has demonstrated a capacity to carry out eligible activities under this subpart C.

[53 FR 34439, Sept. 6, 1988, as amended at 53 FR 31239, Aug. 17, 1988; 55 FR 29308, July 18, 1990; 57 FR 27119, June 17, 1992; 60 FR 1943, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 65 FR 70215, Nov. 21, 2000]

§ 570.202 Eligible rehabilitation and preservation activities.

(a) *Types of buildings and improvements eligible for rehabilitation assistance.* CDBG funds may be used to finance the rehabilitation of:

(1) Privately owned buildings and improvements for residential purposes; improvements to a single-family residential property which is also used as a place of business, which are required in order to operate the business, need not

be considered to be rehabilitation of a commercial or industrial building, if the improvements also provide general benefit to the residential occupants of the building;

(2) Low-income public housing and other publicly owned residential buildings and improvements;

(3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvements to the exterior of the building and the correction of code violations (further improvements to such buildings may be undertaken pursuant to § 570.203(b));

(4) Nonprofit-owned nonresidential buildings and improvements not eligible under § 570.201(c); and

(5) Manufactured housing when such housing constitutes part of the community's permanent housing stock.

(b) *Types of assistance.* CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to

achieve the locality's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and repair of water leaks;

(6) Connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

(i) Initial homeowner warranty premiums;

(ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and

(iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to § 570.605.

(iv) Procedures concerning inspection and testing for and abatement of lead-based paint, pursuant to § 570.608.

(8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or under section 17 of the United States Housing Act of 1937;

(10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937; and

(11) Improvements designed to remove material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to buildings and improvements eligible for assistance under paragraph (a) of this section.

(c) *Code enforcement.* Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided may be expected to arrest the decline of the area.

(d) *Historic preservation.* CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.

(e) *Renovation of closed buildings.* CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.

(f) *Lead-based paint activities.* Lead-based paint activities as set forth in part 35 of this title.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1944, Jan. 5, 1995; 60 FR 56911, Nov. 9, 1995; 64 FR 50225, Sept. 15, 1999]

§ 570.203 Special economic development activities.

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart which may be carried out as part of an economic development project. Guidelines for selecting activities to assist under this paragraph are provided at § 570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new

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housing. Special economic development activities include:

(a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.

(b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible in § 570.207(a). In selecting businesses to assist under this authority, the recipient shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods.

(c) Economic development services in connection with activities eligible under this section, including, but not limited to, outreach efforts to market available forms of assistance; screening of applicants; reviewing and underwriting applications for assistance; preparation of all necessary agreements; management of assisted activities; and the screening, referral, and placement of applicants for employment opportunities generated by CDBG-eligible economic development activities, including the costs of providing necessary training for persons filling those positions.

[53 FR 34439, Sept. 6, 1988, as amended at 60 FR 1944, Jan. 5, 1995]

§ 570.204 Special activities by Community-Based Development Organizations (CBDOs).

(a) *Eligible activities.* The recipient may provide CDBG funds as grants or loans to any CBDO qualified under this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. The funded project activities may include those listed as eligible under this subpart, and, except as described in paragraph (b) of this section, activities not otherwise listed as eligible under this subpart. For purposes of

qualifying as a project under paragraphs (a)(1), (a)(2), and (a)(3) of this section, the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed. For purposes of this section:

(1) Neighborhood revitalization project includes activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government which is under 25,000 population;

(2) Community economic development project includes activities that increase economic opportunity, principally for persons of low- and moderate-income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii);

(3) Energy conservation project includes activities that address energy conservation, principally for the benefit of the residents of the recipient's jurisdiction; and

(4) To carry out a project means that the CBDO undertakes the funded activities directly or through contract with an entity other than the grantee, or through the provision of financial assistance for activities in which it retains a direct and controlling involvement and responsibilities.

(b) *Ineligible activities.* Notwithstanding that CBDOs may carry out activities that are not otherwise eligible under this subpart, this section does not authorize:

(1) Carrying out an activity described as ineligible in § 570.207(a);

(2) Carrying out public services that do not meet the requirements of § 570.201(e), except that:

(i) Services carried out under this section that are specifically designed to increase economic opportunities

through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and

(ii) Services of any type carried out under this section pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e) shall not be subject to the limitations in § 570.201(e)(1) or (2), as applicable;

(3) Providing assistance to activities that would otherwise be eligible under § 570.203 that do not meet the requirements of § 570.209; or

(4) Carrying out an activity that would otherwise be eligible under § 570.205 or § 570.206, but that would result in the recipient's exceeding the spending limitation in § 570.200(g).

(c) *Eligible CBDOs.* (1) A CBDO qualifying under this section is an organization which has the following characteristics:

(i) Is an association or corporation organized under State or local law to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation within the jurisdiction of the recipient, or in the case of an urban county, the jurisdiction of the county; and

(ii) Has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income; and

(iii) May be either non-profit or for-profit, provided any monetary profits to its shareholders or members must be only incidental to its operations; and

(iv) Maintains at least 51 percent of its governing body's membership for low- and moderate-income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation, or representatives of low- and moderate-income neighborhood organizations located in its geographic area of operation; and

(v) Is not an agency or instrumentality of the recipient and does not permit more than one-third of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees or officials of an ineligible entity (even though such persons may be otherwise qualified under paragraph (c)(1)(iv) of this section); and

(vi) Except as otherwise authorized in paragraph (c)(1)(v) of this section, requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body; and

(vii) Is not subject to requirements under which its assets revert to the recipient upon dissolution; and

(viii) Is free to contract for goods and services from vendors of its own choosing.

(2) A CBDO that does not meet the criteria in paragraph (c)(1) of this section may also qualify as an eligible entity under this section if it meets one of the following requirements:

(i) Is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making; or

(ii) Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended; or

(iii) Is a Community Housing Development Organization (CHDO) under 24 CFR 92.2, designated as a CHDO by the HOME Investment Partnerships program participating jurisdiction, with a geographic area of operation of no more than one neighborhood, and has received HOME funds under 24 CFR 92.300 or is expected to receive HOME funds as described in and documented in accordance with 24 CFR 92.300(e).

(3) A CBDO that does not qualify under paragraph (c)(1) or (2) of this section may also be determined to qualify as an eligible entity under this section if the recipient demonstrates to the satisfaction of HUD, through the provision of information regarding the organization's charter and by-laws, that the organization is sufficiently similar

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in purpose, function, and scope to those entities qualifying under paragraph (c)(1) or (2) of this section.

[60 FR 1944, Jan. 5, 1995]

§ 570.205 Eligible planning, urban environmental design and policy-planning-management-capacity building activities.

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:

- (1) Comprehensive plans;
- (2) Community development plans;
- (3) Functional plans, in areas such as:
 - (i) Housing, including the development of a consolidated plan;
 - (ii) Land use and urban environmental design;
 - (iii) Economic development;
 - (iv) Open space and recreation;
 - (v) Energy use and conservation;
 - (vi) Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;
 - (vii) Transportation;
 - (viii) Utilities; and
 - (ix) Historic preservation.
- (4) Other plans and studies such as:
 - (i) Small area and neighborhood plans;
 - (ii) Capital improvements programs;
 - (iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under §§ 570.201-570.204);
 - (iv) The reasonable costs of general environmental, urban environmental design and historic preservation studies. However, costs necessary to comply with 24 CFR part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under §§ 570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of § 570.200(g);
 - (v) Strategies and action programs to implement plans, including the devel-

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opment of codes, ordinances and regulations;

(vi) Support of clearinghouse functions, such as those specified in Executive Order 12372; and

(vii) Analysis of impediments to fair housing choice.

(6) Policy—planning—management—capacity building activities which will enable the recipient to:

- (1) Determine its needs;
- (2) Set long-term goals and short-term objectives, including those related to urban environmental design;
- (3) Devise programs and activities to meet these goals and objectives;
- (4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and
- (5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation, but excluding the costs necessary to implement such plans.

[53 FR 34439, Sept. 6, 1988, as amended at 56 FR 56127, Oct. 31, 1991; 60 FR 1915, Jan. 5, 1995]

§ 570.206 Program administrative costs.

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities assisted in whole or in part with funds provided under this part and, where applicable, housing activities (described in paragraph (g) of this section) covered in the recipient's housing assistance plan. This does not include staff and overhead costs directly related to carrying out activities eligible under § 570.201 through § 570.204, since those costs are eligible as part of such activities.

(a) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not necessarily limited to, necessary expenditures for the following:

- (1) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in program administration. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program of each person

whose *primary* responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. The recipient may use only one of these methods during the program year (or the grant period for grants under subpart F). Program administration includes the following types of assignments:

- (i) Providing local officials and citizens with information about the program;
- (ii) Preparing program budgets and schedules, and amendments thereto;
- (iii) Developing systems for assuring compliance with program requirements;
- (iv) Developing interagency agreements and agreements with subrecipients and contractors to carry out program activities;
- (v) Monitoring program activities for progress and compliance with program requirements;
- (vi) Preparing reports and other documents related to the program for submission to HUD;
- (vii) Coordinating the resolution of audit and monitoring findings;
- (viii) Evaluating program results against stated objectives; and
- (ix) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraph (a)(1)(i) through (viii) of this section.

(2) Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services; and

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.

(b) *Public information.* The provisions of information and other resources to residents and citizen organizations participating in the planning, implemen-

tation, or assessment of activities being assisted with CDBG funds.

(c) *Fair housing activities.* Provision of fair housing services designed to further the fair housing objectives of the Fair Housing Act (42 U.S.C. 3601-20) by making all persons, without regard to race, color, religion, sex, national origin, familial status or handicap, aware of the range of housing opportunities available to them; other fair housing enforcement, education, and outreach activities; and other activities designed to further the housing objective of avoiding undue concentrations of assisted persons in areas containing a high proportion of low and moderate income persons.

(d) [Reserved]

(e) *Indirect costs.* Indirect costs may be charged to the CDBG program under a cost allocation plan prepared in accordance with OMB Circular A-21, A-87, or A-122 as applicable.

(f) *Submission of applications for Federal programs.* Preparation of documents required for submission to HUD to receive funds under the CDBG and UDAG programs, except as limited under subpart F at § 570.433(a)(3). In addition, CDBG funds may be used to prepare applications for other Federal programs where the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.

(g) *Administrative expenses to facilitate housing.* CDBG funds may be used for necessary administrative expenses in planning or obtaining financing for housing as follows: for entitlement recipients, assistance authorized by this paragraph is limited to units which are identified in the recipient's HUD approved housing assistance plan; for HUD-administered small cities recipients, assistance authorized by the paragraph is limited to facilitating the purchase or occupancy of existing units which are to be occupied by low and moderate income households, or the construction of rental or owner units where at least 20 percent of the units in each project will be occupied at affordable rents/costs by low and moderate income persons. Examples of eligible actions are as follows:

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(1) The cost of conducting preliminary surveys and analysis of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and "sketch drawings," but excluding architectural, engineering, and other details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 Housing Assistance Payments Program pursuant to 24 CFR parts 880-883;

(4) Fees associated with processing of applications for mortgage or insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA);

(5) The cost of issuance and administration of mortgage revenue bonds used to finance the acquisition, rehabilitation or construction of housing, but excluding costs associated with the payment or guarantee of the principal or interest on such bonds; and

(6) Special outreach activities which result in greater landlord participation in Section 8 Housing Assistance Payments Program-Existing Housing or similar programs for low and moderate income persons.

(h) *Section 17 of the United States Housing Act of 1937.* Reasonable costs equivalent to those described in paragraphs (a), (b), (e) and (f) of this section for overall program management of the Rental Rehabilitation and Housing Development programs authorized under section 17 of the United States Housing Act of 1937, whether or not such activities are otherwise assisted with funds provided under this part.

(i) Whether or not such activities are otherwise assisted by funds provided under this part, reasonable costs equivalent to those described in paragraphs (a), (b), (e), and (f) of this section for overall program management of:

(1) A Federally designated Empowerment Zone or Enterprise Community; and

(2) The HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 note).

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 54 FR 37411, Sept. 8, 1989; 60 FR 56912, Nov. 9, 1995]

§ 570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of §§ 570.201-570.206 is ineligible to be assisted with CDBG funds. This section identifies specific activities that are ineligible and provides guidance in determining the eligibility of other activities frequently associated with housing and community development.

(a) The following activities may not be assisted with CDBG funds:

(1) *Buildings or portions thereof, used for the general conduct of government* as defined at § 570.3(d) cannot be assisted with CDBG funds. This does not include, however, the removal of architectural barriers under § 570.201(c) involving any such building. Also, where acquisition of real property includes an existing improvement which is to be used in the provision of a building for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible, provided such acquisition meets a national objective described in § 570.208.

(2) *General government expenses.* Except as otherwise specifically authorized in this subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part.

(3) *Political activities.* CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally assisted with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis,

and are assessed equal rent or use charges, if any.

(b) The following activities may not be assisted with CDBG funds unless authorized under provisions of § 570.203 or as otherwise specifically noted herein or when carried out by an entity under the provisions of § 570.204.

(1) *Purchase of equipment.* The purchase of equipment with CDBG funds is generally ineligible.

(i) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-21, A-87 or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under § 570.201(c).

(ii) *Fire protection equipment.* Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under § 570.201(c).

(iii) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation or use allowances (in accordance with OMB Circular A-21, A-87 or A-122, as applicable) for such items when necessary for use by a recipient or its sub-recipients in the administration of activities assisted with CDBG funds, or when eligible as fire fighting equipment, or when such items constitute all or part of a public service pursuant to § 570.201(e).

(2) *Operating and maintenance expenses.* The general rule is that any expense associated with repairing, operating or maintaining public facilities, improvements and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, the use of CDBG funds to pay the allocable costs of op-

erating and maintaining a facility used in providing a public service would be eligible under § 570.201(e), even if no other costs of providing such a service are assisted with such funds. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of publicly owned streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for persons with a disabilities, parking and other public facilities and improvements. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs; and

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities.

(3) *New housing construction.* For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing pre-construction costs set forth in § 570.206(g), are not considered as activities to subsidize or assist new residential construction. CDBG funds may not be used for the construction of new permanent residential structures or for any program to subsidize or assist such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR part 42;

(ii) As authorized under § 570.201(m) or (n);

(iii) When carried out by an entity pursuant to § 570.204(a);

(4) *Income payments.* The general rule is that CDBG funds may not be used for income payments. For purposes of the CDBG program, "income payments" means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to

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three consecutive months to the provider of such items or services on behalf of an individual or family.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 56912, Nov. 9, 1995; 65 FR 70215, Nov. 21, 2000]

§ 570.208 Criteria for national objectives.

The following criteria shall be used to determine whether a CDBG-assisted activity complies with one or more of the national objectives as required under § 570.200(a)(2):

(a) *Activities benefiting low- and moderate-income persons.* Activities meeting the criteria in paragraph (a) (1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate income persons to the exclusion of low income persons.)

(i) *Area benefit activities.* (i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.

(ii) For metropolitan cities and urban counties, an activity that would otherwise qualify under § 570.208(a)(1)(i) except that the area served contains less than 51 percent low and moderate income residents will also be considered to meet the objective of benefiting low and moderate income persons where the proportion of low and moderate income persons in the area is within the highest quartile of all areas in the recipient's jurisdiction in terms of the degree of concentration of such persons. In applying this exception, HUD will determine the lowest proportion a recipient may use to qualify an area for this purpose as follows:

(A) All census block groups in the recipient's jurisdiction shall be rank ordered from the block group of highest proportion of low and moderate income persons to the block group with the lowest. For urban counties, the rank ordering shall cover the entire area constituting the urban county and shall not be done separately for each participating unit of general local government.

(B) In any case where the total number of a recipient's block groups does not divide evenly by four, the block group which would be fractionally divided between the highest and second quartiles shall be considered to be part of the highest quartile.

(C) The proportion of low and moderate income persons in the last census block group in the highest quartile shall be identified. Any service area located within the recipient's jurisdiction and having a proportion of low and moderate income persons at or above this level shall be considered to be within the highest quartile.

(D) If block group data are not available for the entire jurisdiction, other data acceptable to the Secretary may be used in the above calculations.

(iii) An activity to develop, establish, and operate for up to two years after the establishment of, a uniform emergency telephone number system serving an area having less than the percentage of low- and moderate-income residents required under paragraph (a)(1)(i) of this section or (as applicable) paragraph (a)(1)(ii) of this section, provided the recipient obtains prior HUD approval. To obtain such approval, the recipient must:

(A) Demonstrate that the system will contribute significantly to the safety of the residents of the area. The request for approval must include a list of the emergency services that will participate in the emergency telephone number system;

(B) Submit information that serves as a basis for HUD to determine whether at least 51 percent of the use of the system will be by low- and moderate-income persons. As available, the recipient must provide information that identifies the total number of calls actually received over the preceding 12-

month period for each of the emergency services to be covered by the emergency telephone number system and relates those calls to the geographic segment (expressed as nearly as possible in terms of census tracts, block numbering areas, block groups, or combinations thereof that are contained within the segment) of the service area from which the calls were generated. In analyzing this data to meet the requirements of this section, HUD will assume that the distribution of income among the callers generally reflects the income characteristics of the general population residing in the same geographic area where the callers reside. If HUD can conclude that the users have primarily consisted of low- and moderate-income persons, no further submission is needed by the recipient. If a recipient plans to make other submissions for this purpose, it may request that HUD review its planned methodology before expending the effort to acquire the information it expects to use to make its case;

(C) Demonstrate that other Federal funds received by the recipient are insufficient or unavailable for a uniform emergency telephone number system. For this purpose, the recipient must submit a statement explaining whether the lack of funds is due to the insufficiency of the amount of the available funds, restrictions on the use of such funds, or the prior commitment of funds by the recipient for other purposes; and

(D) Demonstrate that the percentage of the total costs of the system paid for by CDBG funds does not exceed the percentage of low- and moderate-income persons in the service area of the system. For this purpose, the recipient must include a description of the boundaries of the service area of the emergency telephone number system, the census divisions that fall within the boundaries of the service area (census tracts or block numbering areas), the total number of persons and the total number of low- and moderate-income persons within each census division, the percentage of low- and moderate-income persons within the service area, and the total cost of the system.

(iv) An activity for which the assistance to a public improvement that provides benefits to all the residents of an area is limited to paying special assessments (as defined in §570.200(c)) levied against residential properties owned and occupied by persons of low and moderate income.

(v) For purposes of determining qualification under this criterion, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.

(vi) In determining whether there is a sufficiently large percentage of low- and moderate-income persons residing in the area served by an activity to qualify under paragraph (a)(1) (i), (ii), or (vii) of this section, the most recently available decennial census information must be used to the fullest extent feasible, together with the section 8 income limits that would have applied at the time the income information was collected by the Census Bureau. Recipients that believe that the census data does not reflect current relative income levels in an area, or where census boundaries do not coincide sufficiently well with the service area of an activity, may conduct (or have conducted) a current survey of the residents of the area to determine the percent of such persons that are low and moderate income. HUD will accept information obtained through such surveys, to be used in lieu of the decennial census data, where it determines that the survey was conducted in such a manner that the results meet standards of statistical reliability that are comparable to that of the decennial census data for areas of similar size. Where there is substantial evidence that provides a clear basis to believe that the use of the decennial census data would substantially overstate the proportion of persons residing there that are low and moderate income, HUD may require that the recipient rebut such evidence in order to demonstrate compliance with section 105(c)(2) of the Act.

(vii) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a

Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low- and moderate-income residents that is no less than the percentage computed by HUD pursuant to paragraph (a)(1)(ii) of this section or 70 percent, whichever is less, but in no event less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

(2) *Limited clientele activities.* (i) An activity which benefits a limited clientele, at least 51 percent of whom are low- or moderate-income persons. (The following kinds of activities may not qualify under paragraph (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low- and moderate-income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under paragraph (a)(2) of this section, the activity must meet one of the following tests:

(A) Benefit a clientele who are generally presumed to be principally low and moderate income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or

(B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or

(C) Have income eligibility requirements which limit the activity exclusively to low and moderate income persons; or

(D) Be of such nature and be in such location that it may be concluded that

the activity's clientele will primarily be low and moderate income persons.

(ii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

(A) The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under paragraph (a)(1) of this section;

(B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under paragraph (a)(1) or (4) of this section; or

(C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under paragraph (a)(3) of this section.

(iii) A microenterprise assistance activity carried out in accordance with the provisions of § 570.201(o) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.

(iv) An activity designed to provide job training and placement and/or other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstance:

(A) In such cases where such training or provision of supportive services assists business(es), the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and

(B) The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the

total number of persons assisted who are low or moderate income.

(3) *Housing activities.* An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low- and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property by the recipient, a sub-recipient, a developer, an individual homebuyer, or an individual homeowner; conversion of nonresidential structures; and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph § 570.208 (d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

(i) When less than 51 percent of the units in a structure will be occupied by low and moderate income households, CDBG assistance may be provided in the following limited circumstances:

(A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;

(B) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and

(C) The proportion of the total cost of developing the project to be borne by CDBG funds is no greater than the proportion of units in the project that will

be occupied by low and moderate income households.

(ii) When CDBG funds are used to assist rehabilitation eligible under § 570.202(b)(9) or (10) in direct support of the recipient's Rental Rehabilitation program authorized under 24 CFR part 511, such funds shall be considered to benefit low and moderate income persons where not less than 51 percent of the units assisted, or to be assisted, by the recipient's Rental Rehabilitation program overall are for low and moderate income persons.

(iii) When CDBG funds are used for housing services eligible under § 570.201(k), such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at 24 CFR 92.252 or 92.254 are met.

(4) *Job creation or retention activities.* An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

(i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low- and moderate-income persons.

(ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:

(A) The job is known to be held by a low- or moderate-income person; or

(B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low- or moderate-income person upon turnover.

(iii) Jobs that are not held or filled by a low- or moderate-income person may be considered to be available to low- and moderate-income persons for these purposes only if:

(A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and

(B) The recipient and the assisted business take actions to ensure that low- and moderate-income persons receive first consideration for filling such jobs.

(iv) For purposes of determining whether a job is held by or made available to a low- or moderate-income person, the person may be presumed to be a low- or moderate-income person if:

(A) He/she resides within a census tract (or block numbering area) that either:

(1) Meets the requirements of paragraph (a)(4)(v) of this section; or

(2) Has at least 70 percent of its residents who are low- and moderate-income persons; or

(B) The assisted business is located within a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.

(v) A census tract (or block numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally-designated Empowerment Zone or Enterprise Community or meets the following criteria:

(A) It has a poverty rate of at least 20 percent as determined by the most recently available decennial census information;

(B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a poverty rate of at least 30 percent as determined by the most recently available decennial census information; and

(C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:

(1) All block groups in the census tract have poverty rates of at least 20 percent;

(2) The specific activity being undertaken is located in a block group that

has a poverty rate of at least 20 percent; or

(3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.

(vi) As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except:

(A) In certain cases such as where CDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.

(B) Where CDBG funds are used to pay for the staff and overhead costs of an entity making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.

(C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.

(D) Where CDBG funds are used for activities meeting the criteria listed at §570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

(E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities

during the program year, except as provided at paragraph (d)(7) of this section.

(F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.

(1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other businesses might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.

(2) In any case where the cost per job to be created or retained (as determined under paragraph (a)(4)(vi)(F)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. This aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the facility/improvement between the date the recipient identifies the activity in its action plan under part 91 of this title and the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at §570.209(b).

(b) *Activities which aid in the prevention or elimination of slums or blight.* Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(1) *Activities to address slums or blight on an area basis.* An activity will be considered to address prevention or

elimination of slums or blight in an area if:

(i) The area, delineated by the recipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;

(ii) Throughout the area there is a substantial number of deteriorated or deteriorating buildings or the public improvements are in a general state of deterioration;

(iii) Documentation is maintained by the recipient on the boundaries of the area and the condition which qualified the area at the time of its designation; and

(iv) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

(2) *Activities to address slums or blight on a spot basis.* Acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area will meet this objective. Under this criterion, rehabilitation is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(3) *Activities to address slums or blight in an urban renewal area.* An activity will be considered to address prevention or elimination of slums or blight in an urban renewal area if the activity is:

(i) Located within an urban renewal project area or Neighborhood Development Program (NDP) action area; i.e., an area in which funded activities were

authorized under an urban renewal Loan and Grant Agreement or an annual NDP Funding Agreement, pursuant to title I of the Housing Act of 1949; and

(ii) Necessary to complete the urban renewal plan, as then in effect, including initial land redevelopment permitted by the plan.

NOTE: Despite the restrictions in (b) (1) and (2) of this section, any rehabilitation activity which benefits low and moderate income persons pursuant to paragraph (a)(3) of this section can be undertaken without regard to the area in which it is located or the extent or nature of rehabilitation assisted.

(c) *Activities designed to meet community development needs having a particular urgency.* In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(d) *Additional criteria.* (1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisition is for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under § 570.505.

(2) Where the assisted activity is relocation assistance that the recipient is required to provide, such relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation assistance is vol-

untary on the part of the grantee the recipient may qualify the assistance either on the basis of the national objective addressed by the displacing activity or on the basis that the recipients of the relocation assistance are low and moderate income persons.

(3) In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a)(1) of this section as well as those of paragraph (a)(4) of this section in order to qualify as benefiting low and moderate income persons.

(4) CDBG funds expended for planning and administrative costs under § 570.205 and § 570.206 will be considered to address the national objectives.

(5) Where the grantee has elected to prepare an area revitalization strategy pursuant to the authority of § 91.215(e) of this title and HUD has approved the strategy, the grantee may also elect the following options:

(i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

(ii) All housing activities in the area for which, pursuant to the strategy, CDBG assistance is obligated during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(6) Where CDBG-assisted activities are carried out by a Community Development Financial Institution whose charter limits its investment area to a primarily residential area consisting of at least 51 percent low- and moderate-income persons, the grantee may also elect the following options:

(i) Activities carried out by the Community Development Financial Institution for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and

(ii) All housing activities for which the Community Development Financial Institution obligates CDBG assistance during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.

(7) Where an activity meeting the criteria at § 570.209(b)(2)(v) may also meet the requirements of either paragraph (d)(5)(i) or (d)(6)(i) of this section, the grantee may elect to qualify the activity under either the area benefit criteria at paragraph (a)(1)(vii) of this section or the job aggregation criteria at paragraph (a)(4)(vi)(D) of this section, but not both. Where an activity may meet the job aggregation criteria at both paragraphs (a)(4)(vi)(D) and (E) of this section, the grantee may elect to qualify the activity under either criterion, but not both.

[53 FR 34439, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1945, Jan. 5, 1995; 60 FR 17445, Apr. 6, 1995; 60 FR 56912, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996]

§ 570.209 Guidelines for evaluating and selecting economic development projects.

The following guidelines are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under § 570.203. These guidelines also apply to activities carried out under the authority of § 570.204 that would otherwise be eligible under § 570.203, were it not for the involvement of a Community-Based Development Organization (CBDO). (This would include activities where a CBDO makes loans to for-profit businesses.) These guidelines are composed of two components: guidelines for evaluating project costs and financial requirements; and standards for evaluating public benefit. The standards for evaluating public benefit are *mandatory*, but the guidelines for evaluating projects costs and financial requirements are not.

(a) *Guidelines and objectives for evaluating project costs and financial requirements.* HUD has developed guidelines that are designed to provide the recipient with a framework for financially

underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. These guidelines, also referred to as the underwriting guidelines, are published as appendix A to this part. The use of the underwriting guidelines published by HUD is not mandatory. However, grantees electing not to use these guidelines would be expected to conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. The objectives of the underwriting guidelines are to ensure:

- (1) That project costs are reasonable;
- (2) That all sources of project financing are committed;
- (3) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;
- (4) That the project is financially feasible;
- (5) That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and
- (6) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

(b) *Standards for evaluating public benefit.* The grantee is responsible for making sure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds under the categories of eligibility governed by these guidelines. The standards set forth below identify the types of public benefit that will be recognized for this purpose and the minimum level of each that must be obtained for the amount

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of CDBG funds used. Unlike the guidelines for project costs and financial requirements covered under paragraph (a) of this section, the use of the standards for public benefit is mandatory. Certain public facilities and improvements eligible under § 570.201(c) of the regulations, which are undertaken for economic development purposes, are also subject to these standards, as specified in § 570.208(a)(4)(vi)(F)(2).

(1) *Standards for activities in the aggregate.* Activities covered by these guidelines must, in the aggregate, either:

(i) Create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or

(ii) Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per \$350 of CDBG funds used.

(2) *Applying the aggregate standards.*

(i) A metropolitan city or an urban county shall apply the aggregate standards under paragraph (b)(1) of this section to all applicable activities for which CDBG funds are first obligated within each single CDBG program year, without regard to the source year of the funds used for the activities. A grantee under the HUD-Administered Small Cities or Insular Areas CDBG programs shall apply the aggregate standards under paragraph (b)(1) of this section to all funds obligated for applicable activities from a given grant; program income obligated for applicable activities will, for these purposes, be aggregated with the most recent open grant. For any time period in which a community has no open HUD-Administered or Insular Areas grants, the aggregate standards shall be applied to all applicable activities for which program income is obligated during that period.

(ii) The grantee shall apply the aggregate standards to the number of jobs to be created/retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where an activity is expected both to create or retain jobs and to provide goods or services to residents

of an area, the grantee may elect to count the activity under either the jobs standard or the area residents standard, but not both.

(iv) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the aggregate standards.

(v) Any activity subject to these guidelines which meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (b)(1) of this section:

(A) Provides jobs exclusively for unemployed persons or participants in one or more of the following programs:

(1) Jobs Training Partnership Act (JTPA);

(2) Jobs Opportunities for Basic Skills (JOBS); or

(3) Aid to Families with Dependent Children (AFDC);

(B) Provides jobs predominantly for residents of Public and Indian Housing units;

(C) Provides jobs predominantly for homeless persons;

(D) Provides jobs predominantly for low-skilled, low- and moderate-income persons, where the business agrees to provide clear opportunities for promotion and economic advancement, such as through the provision of training;

(E) Provides jobs predominantly for persons residing within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(F) Provides assistance to business(es) that operate(s) within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(G) Stabilizes or revitalizes a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;

(H) Provides assistance to a Community Development Financial Institution that serve an area that is predominantly low- and moderate-income persons;

(I) Provides assistance to a Community-Based Development Organization serving a neighborhood that has at least 70 percent of its residents who are low- and moderate-income;

(J) Provides employment opportunities that are an integral component of a project designed to promote spatial deconcentration of low- and moderate-income and minority persons;

(K) With prior HUD approval, provides substantial benefit to low-income persons through other innovative approaches;

(L) Provides services to the residents of an area pursuant to a strategy approved by HUD under the provisions of § 91.215(e) of this title;

(M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by HUD under the provisions of § 91.215(e) of this title.

(3) *Standards for individual activities.* Any activity subject to these guidelines which falls into one or more of the following categories will be considered by HUD to provide insufficient public benefit, and therefore may under no circumstances be assisted with CDBG funds:

(i) The amount of CDBG assistance exceeds either of the following, as applicable:

(A) \$50,000 per full-time equivalent, permanent job created or retained; or

(B) \$1,000 per low- and moderate-income person to which goods or services are provided by the activity.

(ii) The activity consists of or includes any of the following:

(A) General promotion of the community as a whole (as opposed to the promotion of specific areas and programs);

(B) Assistance to professional sports teams;

(C) Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons;

(D) Acquisition of land for which the specific proposed use has not yet been identified; and

(E) Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved

findings of noncompliance relating to previous CDBG assistance provided by the recipient.

(4) *Applying the individual activity standards.* (i) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, it will be disqualified only if the amount of CDBG assistance exceeds both of the amounts in paragraph (b)(3)(i) of this section.

(ii) The individual activity standards in paragraph (b)(3)(i) of this section shall be applied to the number of jobs to be created or retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the individual activity standards in paragraph (b)(3)(i) of this section.

(c) *Amendments to economic development projects after review determinations.* If, after the grantee enters into a contract to provide assistance to a project, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, the project should be reevaluated under these and the recipient's guidelines. (This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided, or an extension to the loan payment period required in the contract.) If a reevaluation of the project indicates that the financial elements and public benefit to be derived have also substantially changed, then the recipient should make appropriate adjustments in the amount, type, terms or conditions of CDBG assistance which has been offered, to reflect the impact of the substantial change. (For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance.) If the amount of CDBG assistance provided to the project is increased, the

amended project must still comply with the public benefit standards under paragraph (b) of this section.

(d) *Documentation.* The grantee must maintain sufficient records to demonstrate the level of public benefit, based on the above standards, that is actually achieved upon completion of the CDBG-assisted economic development activity(ies) and how that compares to the level of such benefit anticipated when the CDBG assistance was obligated. If the grantee's actual results show a pattern of substantial variation from anticipated results, the grantee is expected to take all actions reasonably within its control to improve the accuracy of its projections. If the actual results demonstrate that the recipient has failed the public benefit standards, HUD may require the recipient to meet more stringent standards in future years as appropriate.

[60 FR 1947, Jan. 5, 1995, as amended at 60 FR 17445, Apr. 6, 1995]

Subpart D—Entitlement Grants

SOURCE: 53 FR 34449, Sept. 6, 1988, unless otherwise noted.

§ 570.300 General.

This subpart describes the policies and procedures governing the making of community development block grants to entitlement communities. The policies and procedures set forth in subparts A, C, J, K, and O of this part also apply to entitlement grantees.

§ 570.301 Activity locations and float-funding.

The consolidated plan, action plan, and amendment submission requirements referred to in this section are those in 24 CFR part 91.

(a) For activities for which the grantee has not yet decided on a specific location, such as when the grantee is allocating an amount of funds to be used for making loans or grants to businesses or for residential rehabilitation, the description in the action plan or any amendment shall identify who may apply for the assistance, the process by which the grantee expects to select who will receive the assistance (including

selection criteria), and how much and under what terms the assistance will be provided, or in the case of a planned public facility or improvement, how it expects to determine its location.

(b) *Float-funded activities and guarantees.* A recipient may use undisbursed funds in the line of credit and its CDBG program account that are budgeted in statements or action plans for one or more other activities that do not need the funds immediately, subject to the limitations described below. Such funds shall be referred to as the "float" for purposes of this section and the action plan. Each activity carried out using the float must meet all of the same requirements that apply to CDBG-assisted activities generally, and must be expected to produce program income in an amount at least equal to the amount of the float so used. Whenever the recipient proposes to fund an activity with the float, it must include the activity in its action plan or amend the action plan for the current program year. For purposes of this section, an activity that uses such funds will be called a "float-funded activity."

(1) Each float-funded activity must be individually listed and described as such in the action plan.

(2)(i) The expected time period between obligation of assistance for a float-funded activity and receipt of program income in an amount at least equal to the full amount drawn from the float to fund the activity may not exceed 2.5 years. An activity from which program income sufficient to recover the full amount of the float assistance is expected to be generated may not be funded from the float, but may be included in an action plan if it is funded from CDBG funds other than the float (e.g., grant funds or proceeds from an approved Section 108 loan guarantee).

(ii) Any extension of the repayment period for a float-funded activity shall be considered to be a new float-funded activity for these purposes and may be implemented by the grantee only if the extension is made subject to the same limitations and requirements as apply to a new float-funded activity.

(3) Unlike other projected program income, the full amount of income expected to be generated by a float-funded activity must be shown as a source of program income in the action plan containing the activity, whether or not some or all of the income is expected to be received in a future program year (in accordance with 24 CFR 91.220(g)(1)(ii)(D)).

(4) The recipient must also clearly declare in the action plan that identifies the float-funded activity the recipient's commitment to undertake one of the following options:

(i) Amend or delete activities in an amount equal to any default or failure to produce sufficient income in a timely manner. If the recipient makes this choice, it must include a description of the process it will use to select the activities to be amended or deleted and how it will involve citizens in that process; and it must amend the applicable statement(s) or action plan(s) showing those amendments or deletions promptly upon determining that the float-funded activity will not generate sufficient or timely program income;

(ii) Obtain an irrevocable line of credit from a commercial lender for the full amount of the float-funded activity and describe the lender and terms of such line of credit in the action plan that identifies the float-funded activity. To qualify for this purpose, such line of credit must be unconditionally available to the recipient in the amount of any shortfall within 30 days of the date that the float-funded activity fails to generate the projected amount of program income on schedule;

(iii) Transfer general local government funds in the full amount of any default or shortfall to the CDBG line of credit within 30 days of the float-funded activity's failure to generate the projected amount of the program income on schedule; or

(iv) A method approved in writing by HUD for securing timely return of the amount of the float funding. Such method must ensure that funds are available to meet any default or shortfall within 30 days of the float-funded activity's failure to generate the pro-

jected amount of the program income on schedule.

(5) When preparing an action plan for a year in which program income is expected to be received from a float-funded activity, and such program income has been shown in a prior statement or action plan, the current action plan shall identify the expected income and explain that the planned use of the income has already been described in prior statements or action plans, and shall identify the statements or action plans in which such descriptions may be found.

[60 FR 56913, Nov. 9, 1995]

§ 570.302 Submission requirements.

In order to receive its annual CDBG entitlement grant, a grantee must submit a consolidated plan in accordance with 24 CFR part 91. That part includes requirements for the content of the consolidated plan, for the process of developing the consolidated plan, including citizen participation provisions, for the submission date, for HUD approval, and for the amendment process.

(Approved by the Office of Management and Budget under control number 2506-0117)

[60 FR 1915, Jan. 5, 1995]

§ 570.303 Certifications.

The jurisdiction must make the certifications that are set forth in 24 CFR part 91 as part of the consolidated plan.

(Approved by the Office of Management and Budget under control number 2506-0117)

[60 FR 1915, Jan. 5, 1995]

§ 570.304 Making of grants.

(a) *Approval of grant.* HUD will approve a grant if the jurisdiction's submissions have been made and approved in accordance with 24 CFR part 91, and the certifications required therein are satisfactory to the Secretary. The certifications will be satisfactory to the Secretary for this purpose unless the Secretary has determined pursuant to subpart O of this part that the grantee has not complied with the requirements of this part, has failed to carry out its consolidated plan as provided under § 570.903, or has determined that there is evidence, not directly involving the grantee's past performance

under this program, that tends to challenge in a substantial manner the grantee's certification of future performance. If the Secretary makes any such determination, however, further assurances may be required to be submitted by the grantee as the Secretary may deem warranted or necessary to find the grantee's certification satisfactory.

(b) *Grant agreement.* The grant will be made by means of a grant agreement executed by both HUD and the grantee.

(c) *Grant amount.* The Secretary will make a grant in the full entitlement amount, generally within the last 30 days of the grantee's current program year, unless:

(1) Either the consolidated plan is not received by August 16 of the federal fiscal year for which funds are appropriated or the consolidated plan is not approved under 24 CFR part 91, subpart F—in which case, the grantee will forfeit the entire entitlement amount; or

(2) The grantee's performance does not meet the performance requirements or criteria prescribed in subpart O and the grant amount is reduced.

[53 FR 34449, Sept. 6, 1988, as amended at 60 FR 1915, Jan. 5, 1995; 60 FR 16379, Mar. 30, 1995; 60 FR 56913, Nov. 9, 1995]

§ 570.307 Urban counties.

(a) *Determination of qualification.* The Secretary will determine the qualifications of counties to receive entitlements as urban counties upon receipt of qualification documentation from counties at such time, and in such manner and form as prescribed by HUD. The Secretary shall determine eligibility and applicable portions of each eligible county for purposes of fund allocation under section 106 of the Act on the basis of information available from the U.S. Bureau of the Census with respect to population and other pertinent demographic characteristics, and based on information provided by the county and its included units of general local government.

(b) *Qualification as an urban county.*

(1) A county will qualify as an urban county if such county meets the definition at § 570.3(3). As necessitated by this definition, the Secretary shall determine which counties have authority to carry out essential community de-

velopment and housing assistance activities in their included units of general local government without the consent of the local governing body and which counties must execute cooperation agreements with such units to include them in the urban county for qualification and grant calculation purposes.

(2) At the time of urban county qualification, HUD may refuse to recognize the cooperation agreement of a unit of general local government in an urban county where, based on past performance and other available information, there is substantial evidence that such unit does not cooperate in the implementation of the essential community development or housing assistance activities or where legal impediments to such implementation exist, or where participation by a unit of general local government in noncompliance with the applicable law in subpart K would constitute noncompliance by the urban county. In such a case, the unit of general local government will not be permitted to participate in the urban county, and its population or other needs characteristics will not be considered in the determination of whether the county qualifies as an urban county or in determining the amount of funds to which the urban county may be entitled. HUD will not take this action unless the unit of general local government and the county have been given an opportunity to challenge HUD's determination and to informally consult with HUD concerning the proposed action.

(c) *Essential activities.* For purposes of this section, the term "essential community development and housing assistance activities" means community renewal and lower income housing activities, specifically urban renewal and publicly assisted housing. In determining whether a county has the required powers, the Secretary will consider both its authority and, where applicable, the authority of its designated agency or agencies.

(d) *Period of qualification.* (1) The qualification by HUD of an urban county shall remain effective for three successive Federal fiscal years regardless of changes in its population during that period, except as provided under

APPENDIX 2

EMERGENCY SHELTER GRANT (ESG) REGULATIONS

§ 574.655 Wage rates.

The provisions of the Davis-Bacon Act (40 U.S.C. 276a-276a-5) do not apply to this program, except where funds received under this part are combined with funds from other Federal programs that are subject to the Act.

[59 FR 17201, Apr. 11, 1994]

PART 576—EMERGENCY SHELTER GRANTS PROGRAM: STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

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AUTHORITY: 42 U.S.C. 3535(d) and 11376.

SOURCE: 54 FR 46799, Nov. 7, 1989, unless otherwise noted.

Subpart A—General

§ 576.1 Applicability and purpose.

This part implements the Emergency Shelter Grants program contained in subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378). The program authorizes the Secretary to make grants to States, units of general local government, territories, and Indian tribes (and to private nonprofit organizations providing assistance to homeless individuals in the case of grants made with reallocated amounts) for the rehabilitation or conversion of buildings for use as emergency shelter for the homeless, for the payment of certain operating expenses and essential services in connection with emergency shelters for the homeless, and for homeless prevention activities. The program is designed to be the first step in a continuum of assistance to enable homeless individuals and families to move toward independent living as well as to prevent homelessness.

[61 FR 51548, Oct. 2, 1996]

§ 576.3 Definitions.

The terms *Grantee* and *HUD* are defined in 24 CFR part 5.

Administrative costs means as the term is defined in § 583.135(b) of this part, except that the exclusion relates to the costs of carrying out eligible activities under § 576.21(a).

Consolidated plan means the plan prepared in accordance with part 91 of this title. An approved consolidated plan means a consolidated plan that has been approved by HUD in accordance with part 91 of this title.

Conversion means a change in the use of a building to an emergency shelter for the homeless under this part, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building after conversion.

Emergency shelter means any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for specific populations of the homeless.

Essential services includes services concerned with employment, health,

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drug abuse, and education and may include (but are not limited to):

- (1) Assistance in obtaining permanent housing.
- (2) Medical and psychological counseling and supervision.
- (3) Employment counseling.
- (4) Nutritional counseling.
- (5) Substance abuse treatment and counseling.
- (6) Assistance in obtaining other Federal, State, and local assistance including mental health benefits; employment counseling; medical assistance; Veteran's benefits; and income support assistance such as Supplemental Security Income benefits, Aid to Families with Dependent Children, General Assistance, and Food Stamps;
- (7) Other services such as child care, transportation, job placement and job training; and
- (8) Staff salaries necessary to provide the above services.

Formula city or county means a metropolitan city or urban county that is eligible to receive an allocation of grant amounts under § 576.5.

Homeless means as the term is defined in 42 U.S.C. 11302.

Homeless prevention means activities or programs designed to prevent the incidence of homelessness, including (but not limited to):

- (1) Short-term subsidies to defray rent and utility arrearages for families that have received eviction or utility termination notices;
- (2) Security deposits or first month's rent to permit a homeless family to move into its own apartment;
- (3) Mediation programs for landlord-tenant disputes;
- (4) Legal services programs for the representation of indigent tenants in eviction proceedings;
- (5) Payments to prevent foreclosure on a home; and
- (6) Other innovative programs and activities designed to prevent the incidence of homelessness.

Indian tribe means as the term is defined in 42 U.S.C. 5302(a).

Major rehabilitation means rehabilitation that involves costs in excess of 75 percent of the value of the building before rehabilitation.

Metropolitan city means a city that was classified as a metropolitan city

under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

Nonprofit recipient means any private nonprofit organization providing assistance to the homeless, to which a State or unit of general local government distributes emergency shelter grant amounts.

Obligated means that the grantee or State recipient, as appropriate, has placed orders, awarded contracts, received services, or entered similar transactions that require payment from the grant amount. Grant amounts that a unit of general local government or State awards to a private nonprofit organization by a written agreement or letter of award requiring payment from the grant amount are obligated.

Private nonprofit organization means as the term is defined in 42 U.S.C. 11371.

Rehabilitation means the labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs. The term includes where the use of a building is changed to an emergency shelter and the cost of this change and any rehabilitation costs does not exceed 75 percent of the value of the building before the change in use.

Renovation means rehabilitation that involves costs of 75 percent or less of the value of the building before rehabilitation.

Responsible entity means as the term is defined in § 58.2 of this title, as applied though § 58.1(b)(3) of this title and § 576.57(e).

State means each of the several States and the Commonwealth of Puerto Rico.

Territory means each of the following: the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Palau (Trust Territory of the Pacific), and any other territory or possession of the United States.

State recipient means any unit of general local government or nonprofit organization to which a State makes available emergency shelter grant amounts.

Unit of general local government means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

Urban county means a county that was classified as an urban county under 42 U.S.C. 5302(a) for the fiscal year immediately preceding the fiscal year for which emergency shelter grant amounts are made available.

Value of the building means the monetary value assigned to a building by an independent real estate appraiser, or as otherwise reasonably established by the grantee or the State recipient.

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56128, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995; 61 FR 5210, Feb. 9, 1996; 61 FR 51548, Oct. 2, 1996]

§ 576.5 Allocation of grant amounts.

(a) *Territories.* HUD will set aside for allocation to the territories an amount equal to 0.2 percent of the total amount of each appropriation under this part in any fiscal year. HUD will allocate this set-aside amount to each territory based upon its proportionate share of the total population of all territories.

(b) *States, metropolitan cities, urban counties, and Indian tribes.* HUD will allocate the amounts that remain after the set-aside to territories under paragraph (a) of this section, to States, metropolitan cities, urban counties, and Indian tribes, as provided in 42 U.S.C. 11373. HUD will subsequently distribute the amount set aside for Indian tribes under this paragraph as provided in § 576.31.

(c) *Notification of allocation amount.* HUD will notify in writing each State, metropolitan city, urban county, and territory that is eligible to receive an allocation under this section of the amount of its allocation.

[61 FR 51549, Oct. 2, 1996]

Subpart B—Eligible Activities

§ 576.21 Eligible activities.

(a) *Eligible activities.* Emergency shelter grant amounts may be used for one or more of the following activities relating to emergency shelter for the homeless:

(1) Renovation, major rehabilitation, or conversion of buildings for use as emergency shelters for the homeless;

(2) Provision of essential services to the homeless, subject to the limitations in paragraph (b) of this section;

(3) Payment for shelter maintenance, operation, rent, repairs, security, fuel, equipment, insurance, utilities, food, and furnishings. Not more than 10 percent of the grant amount may be used for costs of staff;

(4) Developing and implementing homeless prevention activities, subject to the limitations in 42 U.S.C. 11374(a)(4) and paragraph (c) of this section. Grant funds may be used under this paragraph to assist families that have received eviction notices or notices of termination of utility services only if the conditions stated in 42 U.S.C. 11374(a)(4) are met; and

(5) Administrative costs, in accordance with 42 U.S.C. 11378.

(b) *Limitations on provision of essential services.* (1) Grant amounts provided by HUD to units of general local government, territories, or Indian tribes, and grant amounts provided by a State to State recipients, may be used to provide an essential service under paragraph (a)(2) of this section only if the service is a new service, or is a quantifiable increase in the level of a service above that which the unit of general local government (or, in the case of a nonprofit organization, the unit of general local government in which the proposed activities are to be located), territory, or Indian tribe, as applicable, provided with local funds during the 12 calendar months immediately before the grantee or State recipient received initial grant amounts.

(2) Limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) are applicable even when the unit of local government, territory, or Indian tribe provides some or all of its grant funds to a nonprofit recipient. This limitation may be waived in accordance with 42 U.S.C. 11374.

(c) *Limitation on homeless prevention activities.* Limits on the use of assistance for homeless prevention activities established in 42 U.S.C. 11374(a)(4) are applicable even when the unit of local government, territory, or Indian tribe provides some or all of its grant funds to a nonprofit recipient.

[61 FR 51549, Oct. 2, 1996]

§ 576.23 Limitations—Primarily religious organizations.

(a) *Provision of assistance.* (1) Assistance may be provided under this part to a grantee or recipient that is a primarily religious organization if the primarily religious organization agrees to provide all eligible activities under this program in a manner that is free from religious influences and in accordance with the following principles:

(i) It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;

(ii) It will not discriminate against any person applying for shelter or any of the eligible activities under this part on the basis of religion and will not limit such housing or other eligible activities or give preference to persons on the basis of religion; and

(iii) It will provide no religious instruction or counseling, conduct no religious services or worship (not including voluntary nondenominational prayer before meetings), engage in no religious proselytizing, and exert no other religious influence in the provision of shelter and other eligible activities under this part.

(2) HUD may provide reallocated amounts to a recipient that is a primarily religious organization if the assistance will not be used by the organization to acquire a structure (in the case of homeless prevention activities under § 576.21(a)(4)), or to rehabilitate a structure owned by the organization, except as described in paragraph (b) of this section.

(b) *Rehabilitation or conversion of emergency shelters.* Grants may be used to rehabilitate or convert to an emergency shelter a structure that is owned by a primarily religious organization, only if:

(1) The structure (or portion thereof) that is to be renovated, rehabilitated, or converted with HUD assistance has been leased to an existing or newly established wholly secular organization;

(2) The HUD assistance is provided to the secular organization (and not the religious organization) to make the improvements;

(3) The leased structure will be used exclusively for secular purposes available to all persons;

(4) The lease payments paid to the primarily religious organization do not exceed the fair market rent for the structure before the renovation, rehabilitation, or conversion;

(5) The portion of the cost of any improvements that benefit any unleased portion of the structure will be allocated to, and paid for by, the religious organization; and

(6) The primarily religious organization agrees that if the recipient does not retain the use of the leased premises for wholly secular purposes for the useful life of the improvements, the primarily religious organization will pay to the original grantee (from which the amounts used to renovate, rehabilitate, or convert the building were derived) an amount equal to the residual value of the improvements. A private nonprofit organization must remit to HUD this amount if the organization is the lessee as well as the grantee. The original grantee is expected to use this amount to alleviate homelessness in its jurisdiction, but there is no requirement that funds received after the close of the grant period be used in accordance with the requirements of this part.

(c) *Assistance to a wholly secular private nonprofit organization.* (1) A primarily religious organization may establish a wholly secular private nonprofit organization to serve as a recipient. The secular organization may be eligible to receive all forms of assistance available under this part, subject to the following:

(i) The secular organization must agree to provide shelter and services eligible under this part in a manner that is free from religious influences and in accordance with the principles set forth in paragraph (a)(1) of this section.

(ii) The secular organization may enter into a contract with the religious organization to provide essential services or undertake homeless prevention activities. The religious organization must agree in the contract to carry out its contractual responsibilities in a manner free from religious influences and in accordance with the principles

set forth in paragraph (a)(1) of this section.

(iii) The rehabilitation, conversion, or renovation of emergency shelters are subject to the requirements of paragraph (b) of this section.

(2) HUD will not require the religious organization to establish the secular organization before the selection of its application. In such a case, the religious organization may apply on behalf of the secular organization. The application will be reviewed on the basis of the religious organization's financial responsibility and capacity, and its commitment to provide appropriate resources to the secular organization after formation. After formation, a secular organization that is not in existence at the time of the application will be required to demonstrate that it meets the definition of private nonprofit organization contained in § 576.3. The obligation of funds will be conditioned upon compliance with these requirements.

[61 FR 51549, Oct. 2, 1996]

§ 576.25 Who may carry out eligible activities.

(a) *Generally.* As provided in 42 U.S.C. 11373 eligible activities may be carried out by all State recipients and grantees, except States.

(b) *States.* All of a State's formula allocation, except for administrative costs, must be made available to the following entities:

(1) Units of general local government in the State, which may include formula cities and counties even if such cities and counties receive grant amounts directly from HUD; or

(2) Private nonprofit organizations, in accordance with 42 U.S.C. 11373(c).

(c) *Nonprofit recipients.* Units of general local government, territories, and Indian tribes may distribute all or part of their grant amounts to nonprofit recipients to be used for emergency shelter grant activities.

[61 FR 51549, 51550, Oct. 2, 1996]

Subpart C—Award and Use of Grant Amounts

SOURCE: 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

§ 576.31 Application requirements.

(a) *Indian tribes.* After funds are set aside for allocation to Indian tribes under § 576.5, HUD will publish a Notice of Funding Availability (NOFA) in the FEDERAL REGISTER. The NOFA will specify the requirements and procedures applicable to the allocation and competitive awarding of these set-aside funds to eligible Indian tribe applicants.

(b) *States, territories, and formula cities and counties.* To receive emergency shelter grant amounts, a State, territory, or formula city or county must:

(1) Submit documentation required under this part, part 5 of this title, or any other applicable provisions of Federal law; and

(2) Submit and obtain HUD approval of a consolidated plan that includes activities to be funded under this part. This consolidated plan serves as the jurisdiction's application for funding under this part.

[61 FR 51550, Oct. 2, 1996]

§ 576.33 Review and approval of applications.

(a) *Conditional grant.* HUD may make a conditional grant restricting the obligation and use of emergency shelter grant amounts. Conditional grants may be made where there is substantial evidence that there has been, or there will be, a failure to meet the requirements of this part. In such a case, the reason for the conditional grant, the action necessary to remove the condition, and the deadline for taking those actions will be specified. Failure to satisfy the condition may result in imposition of a sanction under § 576.69, or in any other action authorized under applicable Federal law.

(b) *Grant agreement.* The grant will be made by means of a grant agreement executed by HUD and the grantee. HUD

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will not disburse funds before the grant agreement is fully executed.

[54 FR 46799, Nov. 7, 1989, as amended at 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51550, Oct. 2, 1996]

§ 576.35 Deadlines for using grant amounts.

(a)(1) *States.* Each State must make available to its State recipients all emergency shelter grant amounts that it was allocated under § 576.5 within 65 days of the date of the grant award by HUD. Funds set aside by a State for homeless prevention activities under § 576.21(a)(4) must be made available to State recipients within 180 days of the grant award by HUD.

(2) *State recipients—(i) Obligation of grant funds.* Each State recipient must have its grant amounts obligated (as that term is defined at § 576.3) within 180 days of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities under § 576.21(a)(4), State recipients are required to obligate grant amounts within 30 days of the date on which the State made the grant amounts available to the State recipient.

(ii) *Expenditure of grant funds.* Each State recipient must spend all of its grant amounts within 24 months of the date on which the State made the grant amounts available to the State recipient. In the case of grants for homeless prevention activities, State recipients must spend such sums within 180 days of the date on which the State made the grant amounts available to the recipient.

(b) *Formula cities and counties, territories and Indian tribes—Expenditure of grant funds.* Each formula city or county, territory, and Indian tribe must spend all of the grant amounts it was allocated or awarded under § 576.5 or 576.31 within 24 months of the date of the grant award by HUD.

(c) *Failure to meet deadlines.* (1) Any emergency shelter grant amounts that are not made available or obligated within the applicable time periods specified in paragraph (a)(1) or (b) of this section will be reallocated under § 576.45.

(2) The State must recapture any grant amounts that a State recipient

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does not obligate and spend within the time periods specified in paragraph (a)(2) of this section. The State, at its option, must make these amounts and other amounts returned to the State (except amounts referred to in § 576.22(b)(6) available as soon as practicable to other units of general local government for use within the time period specified in paragraph (a)(2) of this section or to HUD for reallocation under § 576.45.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51550, Oct. 2, 1996]

Subpart D—Reallocations

SOURCE: 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

§ 576.41 Reallocation; lack of approved consolidated plan—formula cities and counties.

(a) *Applicability.* This section applies where a formula city or county fails to submit or obtain HUD approval of its consolidated plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year.

(b) *Grantee.* HUD will make available to the State in which the city or county is located the amounts that a city or county referred to in paragraph (a) of this section would have received.

(c) *Notification of availability.* The responsible HUD field office will promptly notify the State of the availability of any reallocation amounts under this section.

(d) *Eligibility for reallocation amounts.* In order to receive reallocation amounts under this section, the State must:

(1) Execute a grant agreement with HUD for the fiscal year for which the amounts to be reallocated were initially made available.

(2) If necessary, submit an amendment to its application for that fiscal year for the reallocation amounts it wishes to receive. The amendment must be submitted to the responsible HUD field office no later than 30 days after notification is given to the State under paragraph (c) of this section.

(e) *Amendment review and approval.* (1) Section 576.33 governs the review and

approval of application amendments under this section. HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(2) Program activities represented by proposed amendments are subject to environmental review under §576.57 in the same manner as original proposals.

(f) *Deadlines for using reallocated grant amounts.* Section 576.35 governs the use of amounts reallocated under this section.

(g) *Amounts that cannot be reallocated.* Any grant amounts that cannot be reallocated to a State under this section will be reallocated as provided by §576.43. Amounts that are reallocated under this section, but that are returned or unused, will be reallocated under §576.45.

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56128, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

§576.43 Reallocation of grant amounts; lack of approved consolidated plan—States, territories, and Indian tribes.

(a) *Applicability.* This section applies when:

(1) A State, territory, or Indian tribe fails to obtain approval of its consolidated plan within 90 days of the date upon which amounts under this part first become available for allocation in any fiscal year; or

(2) Grant amounts cannot be reallocated to a State under §576.41.

(b) *Grantees.* (1) HUD will reallocate the amounts that a State or Indian tribe referred to in paragraph (a)(1) of this section would have received:

(i) In accordance with 42 U.S.C. 11373(d)(3); and

(ii) If grant amounts remain, then to territories that demonstrate extraordinary need or large numbers of homeless individuals.

(2) HUD will make available the amounts that a territory under paragraph (a)(1) of this section would have received to other territories that demonstrate extraordinary need or large numbers of homeless individuals.

(c) *Notification of funding availability.* HUD will make reallocations to States and Indian tribes under this section by

direct notification or FEDERAL REGISTER notice that will set forth the terms and conditions under which amounts under this section are to be reallocated and grant awards made. In the case of reallocations to Territories, the responsible HUD field office will promptly notify each Territory of any reallocation amounts under this section, and indicate the terms and conditions under which reallocation amounts are to be made available and grant awards made.

(d) *Eligibility for reallocation amounts.* In order to receive reallocation amounts under this section, the formula city or county, State, territory, or Indian tribe must:

(1) Submit an amendment, in accordance with 24 CFR part 91, to its consolidated plan for that program year to cover activities for the reallocation amount it wishes to receive; and

(2) Execute a grant agreement with HUD for the fiscal year for which the amounts to be reallocated were initially made available.

(e) *Review and approval.* (1) Section 576.53, and such additional requirements as HUD may specify in the notification under paragraph (c) of this section, govern the review and approval of application amendments under this section. HUD will rank the amendments and make grant awards under this section on the basis of the following factors:

(i) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(ii) The extent to which the proposed activities address this need; and

(iii) The ability of the grantee to carry out the proposed activities promptly.

(2) HUD will endeavor to make grant awards within 30 days of the application amendment deadline, or as soon thereafter as practicable.

(f) *Grant amounts.* HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application amendment.

(g) *Deadlines for using reallocated amounts.* Section 576.35 governs the use of amounts reallocated under this section.

(h) *Amounts not reallocated.* Any grant amounts that are not reallocated under this section, or that are reallocated, but are unused, will be reallocated under § 576.45(d). Any amounts that are reallocated, but are returned, will be reallocated under § 576.45(c).

[54 FR 46799, Nov. 7, 1989, as amended at 56 FR 56129, Oct. 31, 1991; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

§ 576.45 Reallocation of grant amounts; returned or unused amounts.

(a) *General.* From time to time, HUD will reallocate emergency shelter grant amounts that are returned or unused, as those terms are defined in paragraph (f) of this section. HUD will make reallocations under this section by direct notification or FEDERAL REGISTER Notice that will set forth the terms and conditions under which the grant amounts are to be reallocated and grant awards are to be made.

(b) *FEMA boards.* HUD may use State and local boards established under the Emergency Food and Shelter Program administered by the Federal Emergency Management Agency, as a resource to identify potential applicants for reallocated grant amounts.

(c) *Reallocation—returned grant amounts.*—(1) *States and formula cities and counties.* HUD will endeavor to reallocate returned emergency shelter grant amounts that were initially allocated under § 576.5 to a State or a formula city or county, for use within the same jurisdiction. Reallocation of these grant amounts is subject to the following requirements:

(i) Returned grant amounts that were allocated to a State will be made available (A) first, to units of general local government within the State and (B) if grant amounts remain, then to other States.

(ii) Returned grant amounts that were allocated to a formula city or county will be made available:

(A) First, for use in the city or county, to units of general local government that are authorized under applicable law to carry out activities serving the homeless in the jurisdiction;

(B) If grant amounts remain, then to the State in which the city or county is located;

(C) If grant amounts remain, to units of general local government in the State; and

(D) If grant amounts remain, to other States.

(2) *Indian tribes.* Returned grant amounts that were allocated to an Indian tribe will be made available to other Indian tribes.

(3) *Territories.* Returned grant amounts that were allocated to a territory will be made available, first, to other territories and, if grant amounts remain, then to States.

(4) *Further reallocation: States, formula cities and counties, territories, and Indian tribes.* HUD will reallocate under paragraph (e) of this section any grant amounts that remain after applying the preceding provisions of paragraph (c) of this section or that are returned to HUD after reallocation under those provisions.

(5) The responsible HUD field office will announce the availability of returned grant amounts. The announcement will establish deadlines for submitting applications, and will set out other terms and conditions relating to grant awards, consistent with this part. The announcement will specify the application documents to be submitted.

(6) The responsible HUD field office may establish maximum grant amounts, considering the grant amounts available, and will rank the applications using the criteria in paragraph (e) of this section.

(7) HUD may make a grant award for less than the amount applied for or for fewer than all of the activities identified in the application, based on competing demands for grant amounts and the extent to which the respective activities address the needs of the homeless.

(8) HUD will endeavor to make grant awards within 30 days of the application deadline or as soon thereafter as practicable.

(9) Grants awarded under this section are subject to environmental review under § 576.57.

(d) *Reallocation—unused grant amounts.* Unused grant amounts will be added to the appropriation for the fiscal year immediately following the fiscal year in which the amounts become

available to HUD for reallocation, and will be allocated in accordance with the provisions of § 576.5 of this part.

(e) *Selection criteria.* HUD will award grants under paragraph (c) of this section based on consideration of the following criteria:

(1) The nature and extent of the unmet homeless need within the jurisdiction in which the grant amounts will be used;

(2) The extent to which the proposed activities address this need; and

(3) The ability of the grantee to carry out the proposed activities promptly.

(f) *Definitions—returned or unused grant amounts.* (1) For purposes of this section, emergency shelter grant amounts are considered "returned" when they become available for reallocation because a jurisdiction does not execute a grant agreement with HUD for them.

(2) For purposes of this section, emergency shelter grant amounts are considered "unused" (i.e., Federal deobligation):

(i) When they become available for reallocation by HUD after a grantee has executed a grant agreement with HUD for those amounts; or

(ii) The amounts remain after reallocation under § 576.43 or paragraph (c) of this section.

[54 FR 46799, Nov. 7, 1989, as amended at 57 FR 54507, Nov. 19, 1992; 60 FR 1918, Jan. 5, 1995. Redesignated and amended at 61 FR 51551, Oct. 2, 1996]

Subpart E—Program Requirements

SOURCE: 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

§ 576.51 Matching funds.

(a) *General.* Each grantee, other than a territory, must match the funding provided by HUD under this part as set forth in 42 U.S.C. 11375. The first \$100,000 of any assistance provided to a recipient that is a State is not required to be matched, but the benefit of the unmatched amount must be shared as provided in 42 U.S.C. 11375(c)(4). Matching funds must be provided after the date of the grant award to the grantee. Funds used to match a previous ESG grant may not be used to match a sub-

sequent grant award under this part. A grantee may comply with this requirement by providing the matching funds itself, or through matching funds or voluntary efforts provided by any State recipient or nonprofit recipient (as appropriate).

(b) *Calculating the matching amount.* In calculating the amount of matching funds, in accordance with 42 U.S.C. 11375(a)(3), the time contributed by volunteers shall be determined at the rate of \$5 per hour. For purposes of this paragraph, the grantee will determine the value of any donated material or building, or of any lease, using a method reasonably calculated to establish a fair market value.

[61 FR 51552, Oct. 2, 1996]

§ 576.53 Use as an emergency shelter.

(a)(1) *Restrictions and definition.* Period of use restrictions applicable to assistance provided under this part are governed by 42 U.S.C. 11375(a). Use of grant amounts for developing and implementing homeless prevention activities does not trigger period of use requirements.

(2) For purposes of the requirements under this section, the term *same general population* means either the same types of homeless persons originally served with ESG assistance (i.e., battered spouses, runaway children, families, or mentally ill individuals), or persons in the same geographic area.

(b) *Calculating the applicable period.* The 3- and 10-year periods applicable under paragraph (a) of this section begin to run:

(1) In the case of a building that was not operated as an emergency shelter for the homeless before receipt of grant amounts under this part, on the date of initial occupancy as an emergency shelter for the homeless.

(2) In the case of a building that was operated as an emergency shelter before receipt of grant amounts under this part, on the date that grant amounts are first obligated for the shelter.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51552, Oct. 2, 1996]

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§ 576.55 Building standards.

(a) Any building for which emergency shelter grant amounts are used for conversion, major rehabilitation, rehabilitation, or renovation must meet local government safety and sanitation standards.

(b) For projects of 15 or more units, when rehabilitation costs are:

(1) 75 percent or more of the replacement cost of the building, that project must meet the requirements of § 8.23(a) of this title; or

(2) Less than 75 percent of the replacement cost of the building, that project must meet the requirements of § 8.23(b) of this title.

[61 FR 51552, Oct. 2, 1996]

§ 576.56 Homeless assistance and participation.

(a) *Assistance.* (1) Grantees and recipients must assure that homeless individuals and families are given assistance in obtaining:

(i) Appropriate supportive services, including permanent housing, medical health treatment, mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(ii) Other Federal, State, local, and private assistance available for such individuals.

(2) Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375(c)(5).

(3) Grantees and recipients may, in accordance with 42 U.S.C. 11375(e), terminate assistance provided under this part to an individual or family who violates program requirements.

(b) *Participation.* (1) Each unit of local government, Indian tribe, and non-profit recipient that receives funds under this part must provide for the participation of homeless individuals on its policymaking entity in accordance with 42 U.S.C. 11375(d).

(2) Each State, territory, Indian tribe, unit of local government, and nonprofit recipient that receives funds under this part must involve homeless individuals and families in providing work or services pertaining to facili-

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ties or activities assisted under this part, in accordance with 42 U.S.C. 11375(c)(7).

[61 FR 51552, Oct. 2, 1996]

§ 576.57 Other Federal requirements.

In addition to the Federal requirements set forth in 24 CFR part 5, use of emergency shelter grant amounts must comply with the following requirements:

(a) *Nondiscrimination and equal opportunity.* The nondiscrimination and equal opportunity requirements at 24 CFR part 5 are modified as follows:

(1) *Rehabilitation Act requirements.* HUD's regulations at 24 CFR part 8 implement section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). For purposes of the emergency shelter grants program, the term "dwelling units" in 24 CFR part 8 shall include sleeping accommodations.

(2) Use of emergency shelter grant amounts must also comply with the requirement that the grantee or the State recipient make known that use of the facilities and services is available to all on a nondiscriminatory basis. If the procedures that the grantee or recipient intends to use to make known the availability of the facilities and services are unlikely to reach persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for such facilities and services, the grantee or recipient must establish additional procedures that will ensure that such persons are made aware of the facilities and services. Grantees and recipients must also adopt procedures which will make available to interested persons information concerning the location of services and facilities that are accessible to persons with disabilities.

(b) *Applicability of OMB Circulars.*¹ The policies, guidelines, and requirements of 24 CFR part 85 (codified pursuant to OMB Circular No. A-102) and OMB Circular No. A-87, as they relate to the acceptance and use of emergency

¹OMB Circulars referenced in this section are available at the Entitlement Cities Division, Room 7282, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

shelter grant amounts by States and units of general local government, and Nos. A-110 and A-122 as they relate to the acceptance and use of emergency shelter grant amounts by private nonprofit organizations.

(c) The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title apply to activities under this program.

(d) *Conflicts of interest.* In addition to the conflict of interest requirements in OMB Circulars A-102 and A-110, no person—

(1)(i) Who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, State recipient, or nonprofit recipient (or of any designated public agency) that receives emergency shelter grant amounts and

(ii) Who exercises or has exercised any functions or responsibilities with respect to assisted activities, or

(2) Who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure, or for one year thereafter. HUD may grant an exception to this exclusion as provided in § 570.611 (d) and (e) of this chapter.

(e) *Environmental review responsibilities*—(1) *Generally.* Responsible entities must assess the environmental effects of each application under part 58 of this title. An applicant must include in its application an assurance that the applicant will assume all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under the National Environmental Policy Act of 1969 (NEPA) and related authorities listed in part 58 of this title. The grant award is subject to completion of the environmental responsibilities set out in part 58 of this title within a reasonable time period after

notification of the award. This provision does not preclude the applicant from enclosing its environmental certification and Request for Release of Funds with its application.

(2) *Awards to States.* In the case of emergency shelter grants to States that are distributed to:

(i) Units of general local government, the unit of general local government shall be the responsible entity, and the State will assume HUD's functions with regard to the release of funds; or

(ii) Nonprofit organizations, the State shall be the responsible entity, and HUD will perform functions regarding release of funds under part 58 of this title.

(3) *Release of funds.* HUD will not release funds for an eligible activity if the grantee, recipient, or any other party commits emergency shelter grant funds before the grantee submits, and HUD approves, any required Request for Release of Funds.

(f) *Audit.* The financial management systems used by a State, formula city or county, governmental entity, or an Indian tribe that is a grantee under this program must provide for audits in accordance with part 44 of this title. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in part 45 of this title. (OMB Circulars are available from the Executive Office of the President, Publication Service, 725 17th Street, NW., Suite G-2200, Washington, DC 20503, Telephone, 202-395-7332.)

(g) *Audit.* The financial management system used by a State or unit of general local government that is a grantee or State recipient must provide for audits in accordance with 24 CFR part 44. A private nonprofit organization is subject to the audit requirements of OMB Circular A-133, as set forth in 24 CFR part 45.

(h) *Lobbying and disclosure requirements.* The disclosure requirements and prohibitions of 42 U.S.C. 3537a and 3545 and 31 U.S.C. 1352 (the Byrd Amendment), and the implementing regulations at parts 4 and 87 of this title.

(i) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 276a-276a-5) do not apply to this program.

(j) *Intergovernmental review.* The requirements of Executive Order 12372

and the regulations issued under the order at 24 CFR part 52, to the extent provided by FEDERAL REGISTER notice in accordance with 24 CFR 52.3.

[54 FR 46799, Nov. 7, 1989, as amended at 57 FR 33256, July 27, 1992; 61 FR 5210, Feb. 9, 1996. Redesignated and amended at 61 FR 51552, Oct. 2, 1996; 64 FR 50226, Sept. 15, 1999]

EFFECTIVE DATE NOTE: At 64 FR 50226, Sept. 15, 1999, § 576.57 was amended by revising paragraph (c), effective Sept. 15, 2000. For the convenience of the user, the superseded text is set forth as follows:

§ 576.57 Other Federal requirements.

* * * * *

(c) *Lead-based paint.* The requirements, as applicable, of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and implementing regulations at 24 CFR part 35. In addition, the grantee (or in the case of States, the State recipient) must also meet the following requirements relating to inspection and abatement of defective lead-based paint surfaces:

- (1) Treatment of defective paint surfaces must be performed before final inspection and approval of the renovation, rehabilitation or conversion activity under this part; and
- (2) Appropriate action must be taken to protect shelter occupants from the hazards associated with lead-based paint abatement procedures.

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§ 576.59 Relocation and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, grantees and recipients must assure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of a project assisted under this part.

(b) *Relocation assistance for displaced persons.* A displaced person (defined in paragraph (f)(1) of this section) must be provided relocation assistance at the levels described in, and in accordance with, 49 CFR part 24, which contains the government-wide regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601-4655).

(c) *Real property acquisition requirements.* The acquisition of real property

for a project is subject to the URA and the requirements described in 49 CFR part 24, subpart B.

(d) *Responsibility of grantees and recipients.* Each grantee and recipient must assure that it will comply with the URA, the regulations at 49 CFR part 24, and the requirements of this section. The cost of assistance required by this section may be paid from local public funds, funds provided in accordance with this part, or funds available from other sources.

(e) *Appeals.* A person who disagrees with the grantee's or recipient's determination concerning a payment or other assistance required by this section may file a written appeal of that determination with the grantee or recipient. The appeal procedures to be followed are described in 49 CFR 24.10.

(f) *Definition—(1) Displaced person.* (i) The term "displaced person" means a person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently and involuntarily, as a direct result of acquisition, rehabilitation, or demolition for a project assisted under this part. Permanent, involuntary moves for an assisted project include:

(A) A permanent move from the real property (building or complex) following notice by the grantee, recipient or property owner to move permanently from the property, if the move occurs on or after the date that the grantee or recipient submits to HUD an application for assistance that is later approved and funded;

(B) A permanent move from the real property that occurs before the submission of the application to HUD, if the grantee, recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project, or

(C) A permanent move from the real property by a tenant-occupant of a dwelling unit that occurs after the execution of the agreement between the recipient and HUD if:

(I) The tenant has not been provided a reasonable opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex following the completion of

the project at a rent, including estimated average utility costs, that does not exceed the greater of the tenant's rent and estimated average utility costs before the initiation of negotiations, or 30 percent of gross household income; or

(2) The tenant has been required to relocate temporarily but the tenant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation or other conditions of the temporary relocation are not reasonable, and the tenant does not return to the building/complex; or

(3) The tenant is required to move to another unit in the same building/complex but is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move.

(ii) A person does not qualify as a "displaced person" if:

(A) The person has been evicted for cause based upon a serious or repeated violation of material terms of the lease or occupancy agreement and HUD determines that the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after the submission of the application and, before commencing occupancy, received written notice of the expected displacement;

(C) The person is ineligible under 49 CFR 24.2(g)(2); or

(D) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iii) The grantee or recipient may, at any time, request a HUD determination of whether a displacement is or would be covered under this section.

(2) Initiation of negotiations. For purposes of determining the type of replacement housing payment to be made to a residential tenant displaced as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, the term "initiation of negotiations" means the

execution of the agreement between the grantee and HUD.

(Approved by the Office of Management and Budget under OMB control number 2506-0089)

[54 FR 46799, Nov. 7, 1989, as amended at 54 FR 52397, Dec. 21, 1989. Redesignated at 61 FR 51553, Oct. 2, 1996]

Subpart F—Grant Administration

SOURCE: 54 FR 46799, Nov. 7, 1989, unless otherwise noted. Redesignated at 61 FR 51550, Oct. 2, 1996.

§ 576.61 Responsibility for grant administration.

Grantees are responsible for ensuring that emergency shelter grant amounts are administered in accordance with the requirements of this part and other applicable laws. The State, territory, Indian tribe, or unit of local government is responsible for ensuring that its recipients carry out the recipients' emergency shelter grant programs in compliance with all applicable requirements in the case of:

(a) A State making grant amounts available to State recipients; or

(b) A territory, Indian tribe, or unit of general local government distributing grant amounts to nonprofit recipients.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

§ 576.63 Method of payment.

Payments are made to a grantee upon its request after the grant agreement has been fully executed, and may include a working capital advance for 30 days' cash needs or an advance of \$5,000, whichever is greater. Thereafter, the grantee will be reimbursed for the amount of its actual cash disbursements. If a grantee requests a working capital advance, it must base the request on a realistic, firm estimate of the amounts required to be disbursed over the 30-day period in payment of eligible activity costs.

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

§ 576.65

§ 576.65 Recordkeeping.

(a) Each grantee must ensure that records are maintained for a 4-year period to document compliance with the provisions of this part.

(b) Requirements to ensure confidentiality of records pertaining to the provision of family violence prevention or treatment services with assistance under this part are set forth in 42 U.S.C. 11375(c)(5).

[61 FR 51553, Oct. 2, 1996]

§ 576.67 Sanctions.

(a) *HUD sanctions.* If HUD determines that a grantee is not complying with the requirements of this part or of other applicable Federal law, HUD may (in addition to any remedies that may otherwise be available) take any of the following sanctions, as appropriate:

(1) Issue a warning letter that further failure to comply with such requirements will result in a more serious sanction;

(2) Condition a future grant;

(3) Direct the grantee to stop the incurring of costs with grant amounts;

(4) Require that some or all of the grant amounts be remitted to HUD;

(5) Reduce the level of funds the grantee would otherwise be entitled to receive; or

(6) Elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance.

(b) *State sanctions.* If a State determines that a State recipient is not complying with the requirements of this part or other applicable Federal laws, the State must take appropriate actions, which may include the actions described in paragraph (a) of this section. Any grant amounts that become available to a State as a result of a sanction under this section must, at the option of the State, be made available (as soon as practicable) to other nonprofit organizations or units of general local government located in the State for use within the time periods specified in § 576.35(a)(2), or to HUD for reallocation under § 576.45(d).

(c) *Reallocations.* Any grant amounts that become available to HUD as a result of the imposition of a sanction

24 CFR Ch. V (4-1-00 Edition)

under this section will be reallocated under § 576.45(d).

[54 FR 46799, Nov. 7, 1989. Redesignated and amended at 61 FR 51553, Oct. 2, 1996]

PART 581—USE OF FEDERAL REAL PROPERTY TO ASSIST THE HOMELESS

Sec.

581.1 Definitions.

581.2 Applicability.

581.3 Collecting the information.

581.4 Suitability determination.

581.5 Real property reported excess to GSA.

581.6 Suitability criteria.

581.7 Determination of availability.

581.8 Public notice of determination.

581.9 Application process.

581.10 Action on approved applications.

581.11 Unsuitable properties.

581.12 No applications approved.

581.13 Waivers.

AUTHORITY: 42 U.S.C. 11411 note; 42 U.S.C. 3535(d).

SOURCE: 56 FR 23794, 23795, May 24, 1991, unless otherwise noted.

§ 581.1 Definitions.

Applicant means any representative of the homeless which has submitted an application to the Department of Health and Human Services to obtain use of a particular suitable property to assist the homeless.

Checklist or property checklist means the form developed by HUD for use by landholding agencies to report the information to be used by HUD in making determinations of suitability.

Classification means a property's designation as unutilized, underutilized, excess, or surplus.

Day means one calendar day including weekends and holidays.

Eligible organization means a State, unit of local government or a private non-profit organization which provides assistance to the homeless, and which is authorized by its charter or by State law to enter into an agreement with the Federal government for use of real property for the purposes of this subpart. Representatives of the homeless interested in receiving a deed for a particular piece of surplus Federal property must be section 501(c)(3) tax exempt.

APPENDIX 3 CDBG CERTIFICATIONS

- CERTIFICATION REGARDING LOBBYING
- DRUG FREE WORKPLACE REQUIREMENTS
- DISABILITY NONDISCRIMINATION AFFIDAVIT
- RELIGIOUS ORGANIZATION REQUIREMENTS
- CDBG CERTIFICATION REGARDING CONSTRUCTION/REHABILITATION
 - LEAD BASED PAINT REQUIREMENTS

**CITY OF MIAMI BEACH
CERTIFICATION REGARDING LOBBYING**

Name of Recipient: CITY OF MIAMI BEACH

Name of Sub-recipient: _____

Grant Program Name: COMMUNITY DEVELOPMENT BLOCK GRANT
EMERGENCY SHELTER GRANT

Grant Number: B-04-MC-12-0014
S-04-MC-12-0007

Date: _____

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all individuals receiving sub-awards shall certify and disclose accordingly.

Name of Organization

Signature

Date

Print Name of Authorized Signatory

Print Title of Authorized Signatory

CITY OF MIAMI BEACH
CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

Name of Recipient: CITY OF MIAMI BEACH

Name of Sub-recipient: _____

Grant Program Name: COMMUNITY DEVELOPMENT BLOCK GRANT
EMERGENCY SHELTER GRANT

Grant Number: B-04-MC-12-0014
B-04-MC-12-0007

Date: _____

The Provider shall insert in the space provided below the site(s) expected to be used for the performance of work under the grant covered by the certification:

Place of Performance (include street address, city, county, state, zip code for each site):

Name of Organization

Signature

Date

Print Name of Authorized Signatory

Print Title of Authorized Signatory

CITY OF MIAMI BEACH
ACKNOWLEDGEMENT OF DISABILITY NONDISCRIMINATION AFFIDAVIT

CONTRACT REFERENCE CDBG CONTRACT YEAR 30, Fiscal Year 2004/2005

NAME OF FIRM, CORPORATION, OR ORGANIZATION _____

AUTHORIZED AGENT COMPLETING AFFIDAVIT _____

POSITION _____ PHONE NUMBER () _____

I, _____, being duly first sworn state:

That the above named form, corporation or organization is in compliance with and agrees to continue to comply with, and assure that any subcontractor, or third party contractor under this project complies with all applicable requirements of the laws listed below including, but not limited to, those provisions pertaining to employment, provision of programs and services, transportation, communications, access to facilities, renovations, and new construction.

The Americans with Disabilities Act of 1990 (ADA): Pub. L. 101-336, 104 Stat 327, 42 U.S.C. 12101-12213 and 547 U.S.C. Sections 225 and 611 including Title I, Employment; Title II, Public Services; Title III, Public Accommodations and Services Operated by Private Entities; Title IV, Telecommunications; and Title V, Miscellaneous Provisions.

The Rehabilitation Act of 1973: 29 U.S.C. Section 794.

The Federal Transit Act, as amended: 49 U.S.C. Section 1612.

The Fair Housing Act as amended: 42 U.S.C. Section 3601-3631.

Signature

Date

SUBSCRIBED AND SWORN TO (or affirmed) before me on _____ by _____
(Date)

_____. He/She is personally known to me or has
(Affiant)

presented _____ as identification.

(Type of identification)

(Signature of Notary)

(Serial Number)

(Print or Stamp Name of Notary)

(Expiration Date)

Notary Public _____ (State) Notary Seal

The City of Miami Beach will not award a contract to any firm, corporation or organization that fails to complete and submit this Affidavit with the firm, corporation or organization's bid or proposal or fails to have this Affidavit on file with the City of Miami Beach.

CITY OF MIAMI BEACH
CERTIFICATION OF RELIGIOUS ORGANIZATION REQUIREMENTS

In accordance with First Amendment of the U.S. Constitution - "church/state principles", CDBG assistance may not, as a general rule, be provided to primarily religious entities for any secular or religious activities.

Therefore, the following restrictions and limitations apply to any provider which represents that it is, or may be deemed to be, a religious or denominational institution or an organization operated for religious purposes which is supervised or controlled by or operates in connection with a religious or denominational institution or organization.

A religious entity that applies for and is awarded CDBG funds for public service activities must agree to the following:

1. It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;
2. It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;
3. It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services;
4. The portion of a facility used to provide public services assisted in whole or in part under this Agreement shall contain no sectarian or religious symbols or decorations; and

The funds received under this Agreement shall not be used to construct, rehabilitate, or restore any facility which is owned by the Provider and in which the public services are to be provided. However, minor repairs may be made if such repairs are directly related to the public services; are located in a structure used exclusively for non-religious purposes; and constitute, in dollar terms, only a minor portion of the CDBG expenditure for the public services.

I hereby acknowledge that I have read the specific requirements contained in this Certification, and that eligibility of my organization's project depends upon compliance with the requirements contained in this document.

Name of Organization

Signature

Date

Print Name of Authorized Signatory

Print Title of Authorized Signatory

**CERTIFICATION OF CDBG-FUNDED
CONSTRUCTION/REHABILITATION PROJECTS**

If the Provider anticipates using CDBG funds for construction or rehabilitation, the following federal and City of Miami Beach requirements must be acknowledged:

- A. All construction or rehabilitation plans and specifications for the project must be approved by the city's departments of Planning, Neighborhood Services, Public Works, Building, Code Compliance, and Fire. If the project is located in the Miami Beach Architectural District, or affects a building listed or eligible for listing on the National Register of Historic Places, all plans and specifications must be approved by the State Historic Preservation Office (SHPO), in accordance with the Memorandum of Understanding between the SHPO and the City.
- B. The City shall not be obligated to pay any funds to the project prior to the completion by the City of an environmental review of the project, and said review is approved by any government agencies as may be required by law.
- C. The Provider will assure all wages paid to construction workers by it or its subcontractors are in compliance with federal, state and local labor requirements. The Provider agrees to include in the construction bid specifications in connection with this agreement the applicable Federal Wage Determination assigned to this project by HUD. The Provider must also inform his contractor/subcontractors that they will be required to submit documents after a city-conducted pre-construction conference and prior to construction. Weekly and/or monthly reports must be submitted thereafter, as required by the federal government.
- D. The Provider agrees to comply with, and to assure that its subcontractors comply with, the federal Office of Management and Budget (OMB) Circular Number A-102 Attachment E for programs funded in whole or in part by CDBG funds; with federal OMB Circular A-102 Attachment O for the procurement of supplies, equipment, construction and services; and with Federal Management Circular A-87; or any other applicable OMB circular.
- E. Pursuant to Section 109 of the Act, the Provider specifically agrees that no person shall be denied the benefits of the program on the grounds of race, color, sex, religion or national origin.
- F. The Provider agrees, on its own behalf and on behalf of its contractors and subcontractors, to take affirmative action in attempting to employ low income and minority persons, as mandated by law.
- G. As required by OMB Circular Number A-102, and by Florida Statutes Section 287.055, professional services must be competitively selected. The competitive selection process must include a public advertisement; issuance of a request for proposal and a competitive review based on uniform criteria. Selection criteria must consider the basic qualifications, professional competence, experience and suitability of each firm. Fees for professional services must be requested as a fixed sum and not stated as a percentage of construction costs.
- H. All documents, bid specifications, notices and construction drawings must be submitted for the review and approval of the Neighborhood Services Department prior to public advertisement.
- I. The bidding process for construction contracts must include a formal advertisement, published in The Miami Review, Dodge Reports and The Miami Builder's Exchange. This announcement must include the following:

1. The date, time and place that bid documents are available, and the same information for any pre-bid conferences and receipt of bids.
 2. The requirement of bid surety in the amount of ten percent (10%) of the bid, and a performance and payment bond equal to 100% of the award.
 3. A standard statement regarding the "in whole or in part" federal funding of the project and the various applicable federal regulations.
- J. The City reserves the right to be present at the time of bid openings. If City CDBG monies are the sole funding source, the City may require that bids be received and opened by the City's Procurement Department.
- K. The Provider agrees to submit to the City's Neighborhood Services Department all documentation of the steps followed in the selection of professional services and construction contracts.
- L. The Provider agrees to specify a time of completion and include a liquidated damage clause in all construction contracts. Cost plus a percentage of cost, and percentage of construction cost contracts will not be permitted.
- M. If the Provider is awarded CDBG funds, other conditions and requirements will be specified in the funding agreement.
- N. The Provider agrees that it will not start construction until an official "Notice to Proceed" has been issued.
- O. Pursuant to 570.608 of the CDBG Regulations, and the new provisions in the Economic and Community Development Act of 1974 as amended, the Provider agrees to comply with the inspection, notification, testing and abatement procedures concerning lead-based paint.

I hereby acknowledge that I have read the specific requirements contained in this Certification, and that eligibility of my organization's project depends upon compliance with the requirements contained in this document.

Name of Organization

Signature

Print Name of Authorized Signatory

Print Title of Authorized Signatory

Date

**CERTIFICATION OF
LEAD BASED PAINT REQUIREMENTS**

APPLICABILITY:

- A. The lead based paint rule applies to CDBG-funded housing activities involving construction, purchase and rehabilitation.
- B. The following housing rehabilitation activities are excepted:
 - 1. Emergency repairs (but not lead based paint-related emergency repairs)
 - 2. Weatherizing
 - 3. Water and/or sewer hookups
 - 4. Installation of security devices
 - 5. Facilitation of tax exempt bond issuances for funds
 - 6. Other single-purpose activities that do not include physical repairs or remodeling of applicable surfaces
 - 7. Other activities that do not involve applicable surfaces and do not exceed \$3,000 per unit.

INSPECTION AND TESTING REQUIREMENTS:

The Provider shall be required to test the lead content of chewable surfaces of an apartment building to be rehabilitated, if there is a family residing in one of the units with a child under seven years of age with an identified elevated blood level condition (concentration of lead in blood of 25 micrograms per deciliter or greater) and the building was constructed prior to 1978.

Chewable surfaces are defined as all exterior surfaces of a residential structure, up to five feet from the floor or ground, such as: a wall, stairs, deck, porch, railing, windows or doors that are readily accessible to children under seven years of age, and all interior surfaces of a residential structure.

Lead content shall be tested by using an x-ray fluorescence analyzer or other method approved by HUD. Test readings of 1 mg/cm or higher shall be considered positive for presence of lead based paint.

REQUIRED TREATMENT:

Treatment of lead based paint conditions must be included as part of the proposed rehabilitation work. All chewable surfaces in any room found to contain lead based paint must be treated before final inspection and approval of work. Similarly, all exterior chewable surfaces must be treated when they are found to contain lead based paint.

Minimum treatment involves covering or removing the painted surfaces. Washing and repainting without thorough removal or covering does not constitute adequate treatment. Covering can be achieved by adding a layer of gypsum wallboard or fiberglass cloth barrier. Depending on the wall condition, permanently attached, non-strippable wallpaper may be applied. Covering or replacing trim surfaces is

also permitted. Removal can be accomplished by scraping, heat treatment (infrared or coil type heat guns) or chemicals. Machine sanding and propane torch use are not allowed.

I hereby acknowledge that I have read the specific requirements for lead based paint contained in this Certification, and understand that my organization's project eligibility depends upon compliance with the requirements contained in this document.

MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION

Signature

Date

Print Name of Authorized Signatory

Print Title of Authorized Signatory

APPENDIX 4

LOW AND MODERATE INCOME LEVELS

City of Miami Beach
Low and Moderate Household Income Limits
(Effective 01/30/2004)

STATE: FLORIDA
PMSA: Miami, FL

FY 2004 MEDIAN FAMILY INCOME: \$45,400

A low income or a moderate income household is defined as: a household having an income equal to, or less than, the limits cited below. Individuals who are unrelated but are sharing the same household shall each be considered as one-person households.

HOUSEHOLD SIZE	Very Low Income	Low Income	Moderate Income
1 Person	\$11,050	\$18,450	\$29,500
2 Person	\$12,650	\$21,100	\$33,750
3 Person	\$14,250	\$23,700	\$37,950
4 Person	\$15,800	\$26,350	\$42,150
5 Person	\$17,050	\$28,450	\$45,550
6 Person	\$18,350	\$30,550	\$48,900
7 Person	\$19,600	\$32,650	\$52,300
8 Person	\$20,850	\$34,800	\$55,650

Notes: Very-Low Income = 30% of Median Income
Low Income = 50% of Median Income
Moderate Income = 80% of Median Income

Source: *U.S. Department of Housing and Urban Development*, January 30, 2004

APPENDIX 5
CENSUS TRACTS
&
MAPS

City of Miami Beach – 2000
Low/Mod Income Information By Census Tract

	Census Tract/ Block Group	Total Persons	Total Low/Mod Persons	Year 2000 % Low/Mod
North Beach	39.01-1	1149	767	64.9
Stillwater/Biscayne Point/North Shore 77 th N	39.01-2	918	442	53.6
	39.01-3	745	496	69.3
	39.01-4	998	572	60.3
	39.01-5	2621	1652	65
	39.01-6	2270	1547	65.3
	39.01-7	1793	574	32
Normandy/North Shore 71 st to 77 th	39.05-1	1967	844	44
	39.05-2	3841	2606	67.9
	39.05-3	887	274	31.2
	39.05-4	3650	2390	64.4
La Gorce/Alton Road North Bay Road	39.06-6	620	54	8.7
	39.06-7	1506	155	9.6
	39.06-8	448	18	4.2
North Shore 71 st to 63 rd	39.07-1	1203	919	78.1
	39.07-2	1846	1359	73.9
	39.07-3	1743	947	55.9
	39.07-4	2473	1479	59.8
	39.07-5	1609	756	47
Condo Canyon 44 th to 63 rd	39.08-1	1202	198	16.4
	39.08-2	4628	1148	25.2
Total North Beach	-----	38,117	19,197	50.36
	Census Tract/ Block Group	Total Persons	Total Low/Mod Persons	Year 2000 % Low/Mod
Middle Beach				
Middle Beach (38 th to Lake)	40.00-1	262	112	45.5
	40.00-2	1224	357	29.3
	40.00-3	713	109	15.4
	40.00-4	496	95	22.3
	40.00-5	529	142	29.9
	40.00-6	774	138	16
	40.00-7	1107	208	18.8
	40.00-8	58	0	0
Total Middle Beach	-----	5163	1161	22.4

Source: City of Miami Beach Housing & Community Development Division
Based on American Fact Finder (Census 2000)

City of Miami Beach – 2000
Low/Mod Income Information By Census Tract

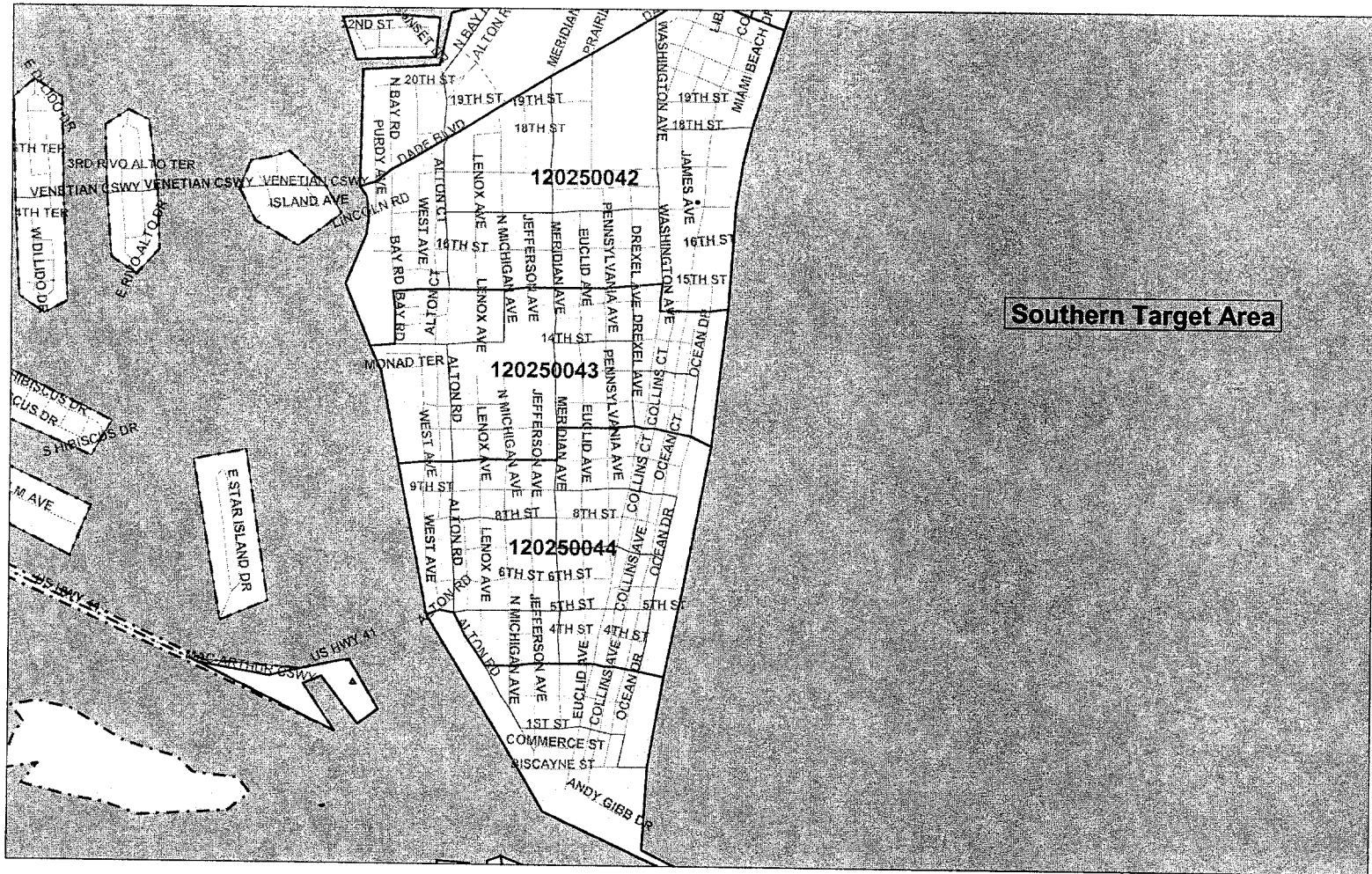
	Census Tract/ Block Group	Total Persons	Total Low/Mod Persons	Year 2000 % Low/Mod
South Beach				
Bayshore, Sunset Islands Mid Beach 33 rd -41 st Street, Ocean to Indian Creek Drive	41.01-1	1047	764	75.6
	41.01-2	2987	1344	47.8
	41.01-3	1407	552	36.6
	41.01-4	1565	414	24.3
	41.01-5	1466	241	17.2
Islands	41.02-1	2255	324	14.8
	41.02-2	821	64	7.9
Lincoln Road West	42.01-1	898	429	45.3
	42.01-2	1617	1068	68.2
	42.01-3	1880	704	37.8
	42.01-4	1228	609	49.8
Lincoln Road East	42.02-1	2121	1428	73.2
	42.02-2	1409	649	48.9
	42.02-3	1856	1045	54.7
Flamingo (10/11 th to 15 th)	43.00-1	566	347	64.3
	43.00-2	204	129	63.2
	43.00-3	2060	1139	54.1
	43.00-4	762	349	47.7
	43.00-5	1345	491	37.9
	43.00-6	432	130	36.2
	43.00-7	3007	1484	47.3
Flamingo West (3 rd to 10 th)	44.01-1	2164	716	35.2
	44.01-2	1704	1102	62.8
	44.01-3	1827	1158	65.5
	44.01-4	468	326	68.3
Flamingo East (3 rd to 11 th)	44.02-1	634	289	47.3
	44.02-2	1707	957	62.9
	44.02-3	836	735	83.1
	44.02-4	779	355	53.9
	44.02-5	1572	1112	68.4
South Pointe, Fisher Island, Coast Guard	45.00-1	781	376	46.8
	45.00-2	1187	668	72.1
	45.00-3	61	0	0
Total South Beach	-----	44,653	21,498	48.14

Source: City of Miami Beach Housing & Community Development Division
Based on American Fact Finder (Census 2000)

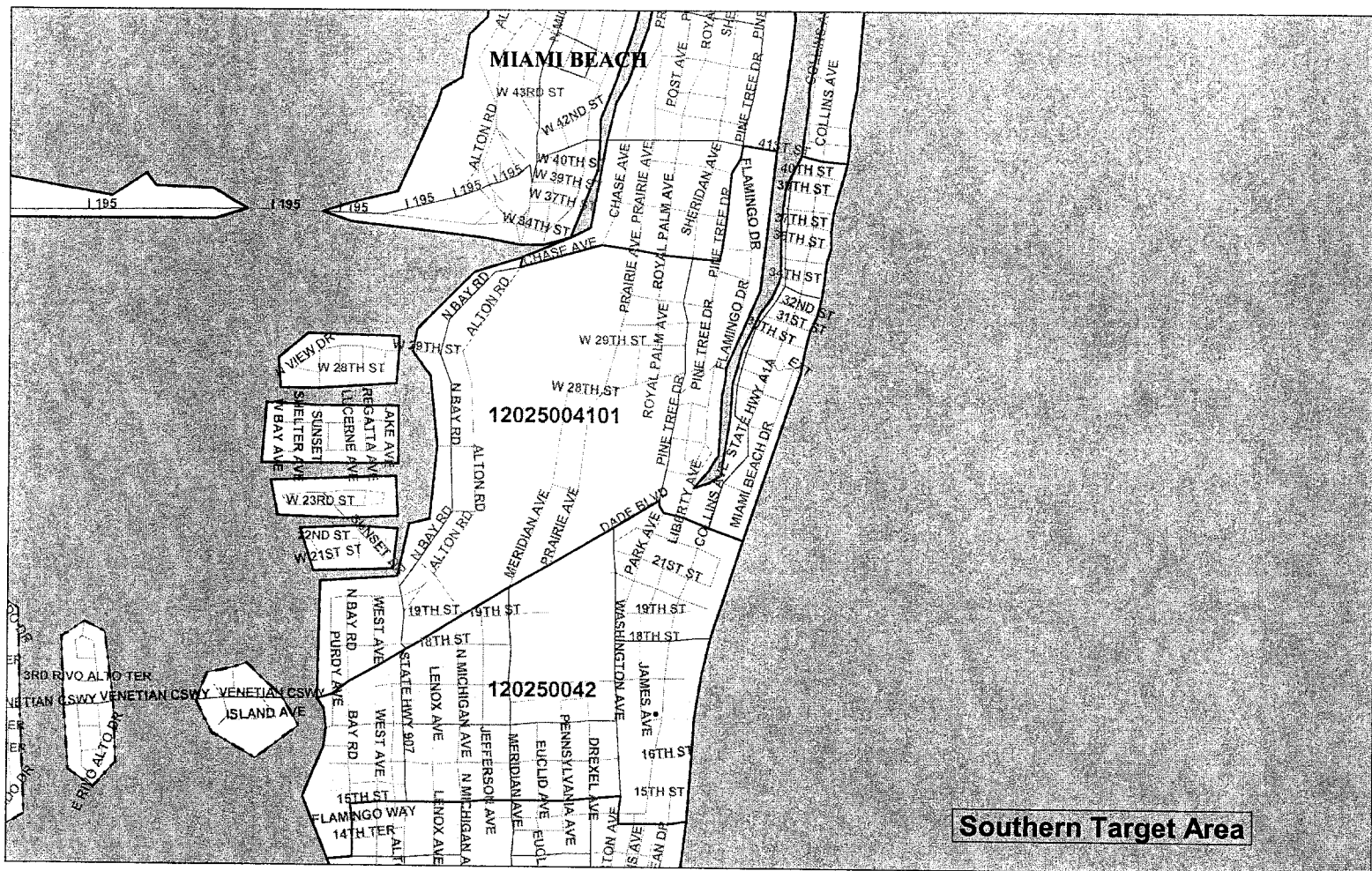
City of Miami Beach – 2000
Low/Mod Income Information By Census Tract

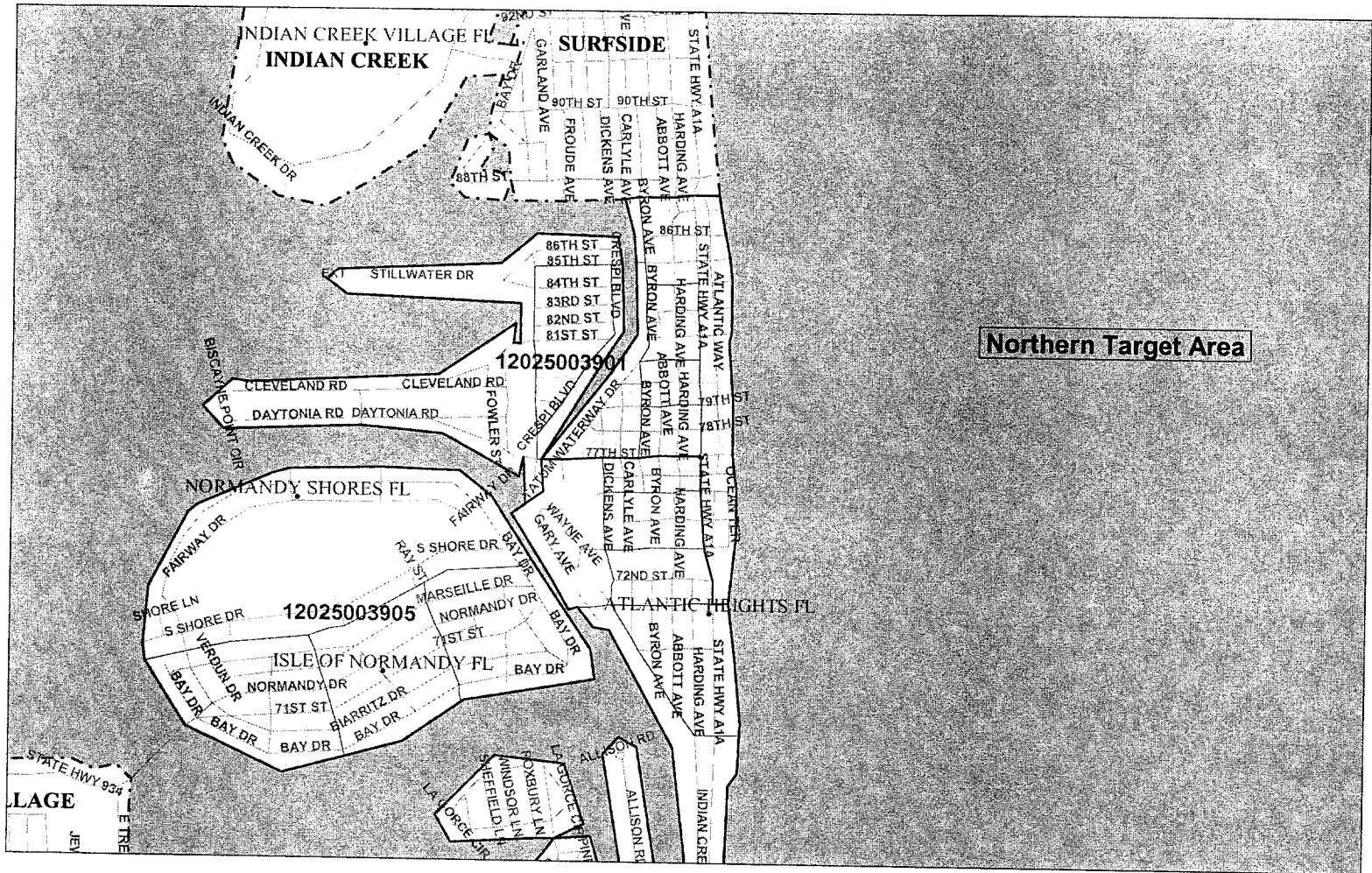
	Census Tract/ Block Group	Total Persons	Total Low/Mod Persons	Year 2000 % Low/Mod
North Beach				
North Shore 77 th N	39.01-1	1149	767	64.9
	39.01-2	918	442	53.6
	39.01-3	745	496	69.3
	39.01-4	998	572	60.3
	39.01-5	2621	1652	65
	39.01-6	2270	1547	65.3
Normandy/North Shore 71 st to 77 th	39.05-2	3841	2606	67.9
	39.05-4	3650	2390	64.4
North Shore 71 st to 63 rd	39.07-1	1203	919	78.1
	39.07-2	1846	1359	73.9
	39.07-3	1743	947	55.9
	39.07-4	2473	1479	59.8
Total North Beach	-----	23,457	15,176	50.36
	Census Tract/ Block Group	Total Persons	Total Low/Mod Persons	Year 2000 % Low/Mod
South Beach				
33 rd to 41 st Street; Indian Creek Drive to Ocean	41.01-1	1047	764	75.6
Lincoln Road West	42.01-2	1617	1068	68.2
Lincoln Road East	42.02-3	1856	1045	54.7
Flamingo (10/11 th to 15 th)	43.00-1	566	347	64.3
	43.00-2	204	129	63.2
	43.00-3	2060	1139	54.1
Flamingo West (3 rd to 10 th)	44.01-2	1704	1102	62.8
	44.01-3	1827	1158	65.5
	44.01-4	468	326	68.3
Flamingo East (3 rd to 11 th)	44.02-2	1707	957	62.9
	44.02-3	836	735	83.1
	44.02-4	779	355	53.9
	44.02-5	1572	1112	68.4
South Pointe	45.00-2	1187	668	72.1
Total South Beach	-----	17,430	10,905	48.14

Source: City of Miami Beach Housing & Community Development Division
Based on American Fact Finder (Census 2000)



Southern Target Area





Northern Target Area